

8 HIGHLY CONFIDENTIAL
9 SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

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12 DECEMBER 20, 2018
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14 VIDEOTAPED DEPOSITION OF JOSEPH EDWARD MILLWARD,
15 taken pursuant to notice, was held at Marcus &
16 Shapira, One Oxford Center, 35th Floor, Pittsburgh,
17 Pennsylvania 15219, by and before Ann Medis,
18 Registered Professional Reporter and Notary Public in
19 and for the Commonwealth of Pennsylvania, on
20 Thursday, December 20, 2018, commencing at 9:07 a.m.

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1	A P P E A R A N C E S	* I N D E X *
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18		
19		
20		
21		
22		
23		
24		
25		
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3	Exhibit 9 Data of shipments from HBC into	157
4	retail pharmacies in Cuyahoga County	
5	HBC-MDL00002100	
6	Exhibit 10 20131030_Daily_HBC_Controls	177
7	HBC_MDL00002348	
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5	Exhibit 22 Email chain, 11/25/13, from T.	181
6	Roahrig to J. Millward, subject: FW:	
7	Daily HBC Suspicious Purchasing	
8	Report	
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1	* INDEX OF HBC-MILLWARD EXHIBITS (Continued) *			P R O C E E D I N G S
2	NO. DESCRIPTION PAGE			-----
3	Exhibit 23 Email chain, 1/10/14, from T. Roahrig to J. Millward, subject: RE: Daily HBC Suspicious Purchasing Report - 01/09/14	181		THE VIDEOGRAPHER: We are now on the record. My name is Chris Ratano. I'm the videographer for Golkow Litigation Services.
4				Today's date is December 20, 2018, and the time is approximately 9:07.
5	Exhibit 24 Email, 8/23/14, from J. Cornwell to P. Raub, et al., subject: Order_item_Blocking_5-Dec_13.docx, SuspiciousReporting.sql	192		This video deposition is being held in Pittsburgh, PA at Marcus & Shapira, LLP, One Oxford Centre, 35th Floor, in the matter of
6				National Prescription Opiate Litigation, MDL No. 2804, Case No. 17-md-2804, United States
7	HBC_MDL00039223			District Court, Northern District of Ohio, Eastern
8	Exhibit 25 Email chain, 8/20/15, from G. Carlson to J. Jenson, et al., subject FW: Thrifty White Notes, attaching Thrifty White Notes	212		Division.
9				The deponent today is Joseph Millward.
10	HBC_MDL00086642 - 00086644			Will counsel please identify themselves for the record.
11	Exhibit 26 Email, 11/13/15, from G. Chunderlik to J. Millward, subject: Central Signer Procedures, attaching CSOS_Central Signer SOPs.ppt	218		MR. HUDSON: Ty Hudson of Wagstaff & Cartmell for plaintiffs.
12				MR. BARTON: Eric Barton, Wagstaff & Cartmell, for the plaintiffs.
13	HBC_MDL00004646			MR. SCHACK: Lou Schack from Reed Smith for AmerisourceBergen.
14	Exhibit 27 Email, 11/13/15, from J. Millward to R. McClune, subject: Notes for Purdue Order Monitoring System.docx, attaching notes from Purdue SOM call	221		MR. SCHWAB: Tom Schwab from Pietragallo. I represent Cardinal Health.
15	HBC_MDL00028405 - 00028407			
16	Exhibit 28 Email, 11/16/15, from J. Millward to P. Raub, et al., subject: SOM and Controlled drug monitoring, attaching 2013	222		
17	HBC_MDL00004996 - 00004998			
18	Exhibit 29 Email chain, 12/15/15, from G. Chunderlik to J. Millward, subject: FW: DEA Questionnaire, attaching Amneal DEA Questionnaire.doc	228		
19	HBC_MDL00029194 - 00029198			
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1	* INDEX OF HBC-MILLWARD EXHIBITS (Continued) *			MS. CHARLES: Amber Charles from
2	NO. DESCRIPTION PAGE			Covington & Burling representing McKesson
3	Exhibit 30 Email, 12/2/15, from J. Millward to G. Chunderlik, et al., subject: Order Monitoring System Policy and Procedures.docx, attaching subject document	230		Corporation.
4				MR. BARNES: Robert Barnes, Marcus & Shapira, HBC.
5	HBC_MDL00028717 - 00028721			MR. KOBRIN: Joshua Kobrin from Marcus & Shapira. I also represent HBC.
6	Exhibit 31 Email, 12/3/15, from J. Millward to G. Chunderlik, et al., subject: Order Monitoring System Policy and Procedures.docx, attaching subject document	230		THE VIDEOGRAPHER: The court reporter today is Ann Medis, and she will now please swear in the witness.
7				JOSEPH E. MILLWARD,
8				having been first duly sworn, was examined
9	HBC_MDL00056199 - 00056203			and testified as follows:
10	Exhibit 32 Email chain, 11/16/15, from J. Millward to J. Lazzaro, subject: RE: Access to Data Warehouse	269		EXAMINATION
11	HBC_MDL00092010 - 00092011			BY MR. HUDSON:
12				Q. Good morning, sir. Could you please
13				state your name for the record.
14	-----			A. Joseph Edward Millward.
15				Q. And, Mr. Millward, my name is Ty Hudson,
16				and I represent several of the plaintiffs in this
17				matter.
18				Where do you currently reside?
19				A. Erie, Pennsylvania.
20				Q. And you are a former employee of Giant
21				Eagle?
22				
23				
24				
25				

Page 10	Page 12
1 A. I am.	1 to say that is: If you don't understand my
2 Q. And Giant Eagle owns HBC Service	2 question, will you just let me know so I can
3 Company; is that right?	3 rephrase it?
4 A. Correct.	4 A. Absolutely.
5 Q. And are you represented by counsel here	5 Q. And you're doing a good job of this, but
6 today?	6 the court reporter needs to take down audible
7 A. I am.	7 answers.
8 Q. And are Mr. Barnes and Josh your	8 So you know that; right?
9 attorneys?	9 A. I understand.
10 A. Yes, they are.	10 Q. And, lastly, if you need to take a break
11 MR. HUDSON: And, Josh, I apologize for	11 at any time, just let me know, and we'll go off
12 mispronouncing your last name.	12 the record. All I would ask is that you answer
13 BY MR. HUDSON:	13 any pending questions.
14 Q. And are they paying for your services	14 Is that fair?
15 here today or is HBC?	15 A. Understood.
16 A. HBC.	16 Q. You graduated from the University of
17 Q. Have you had your deposition taken	17 Pennsylvania School of Pharmacy; is that right?
18 before?	18 A. University of Pittsburgh.
19 A. Yes.	19 Q. University of Pittsburgh -- I'm sorry --
20 Q. How many times?	20 A. Yeah.
21 A. Once.	21 Q. -- School of Pharmacy? And that was in
22 Q. And what was the subject matter of the	22 1995?
23 litigation?	23 A. That is correct.
24 A. It was an employment matter.	24 Q. Any postgraduate work?
25 Q. Were you a party to the matter?	25 A. No.
Page 11	Page 13
1 A. Yes.	1 Q. What did you do after you graduated from
2 Q. Personally, or was Giant Eagle a party	2 pharmacy school?
3 to the matter?	3 A. I worked for a company called Option
4 A. Giant Eagle was a party.	4 Care, which was a home infusion pharmacy, in
5 Q. So you weren't personally named in the	5 Johnstown, Pennsylvania.
6 lawsuit?	6 Q. What does home infusion pharmacy mean?
7 A. Oh, correct; correct. I'm sorry.	7 A. So at the pharmacy we would do home
8 Q. No problem. I just want to make sure	8 intravenous therapy. So facilitating earlier
9 we're on the same page.	9 discharges out of the hospital for patients to
10 Well, for this deposition, let's just make	10 finish their IV antibiotic, IV chemotherapy, total
11 sure that we've got the ground rules. I know	11 parenteral nutrition, pain management, hydration,
12 you've gone through this once before, but just to	12 all intravenous, working with nurses employed or
13 be sure.	13 nursing agencies.
14 I'm going to be asking questions. You're	14 Q. And how long were you with that company?
15 going to be providing answers. I would ask,	15 A. From '95 to 1997.
16 unless your counsel instructs you not to answer,	16 Q. And what was your role?
17 that you answer my questions.	17 A. I was the pharmacist and then pharmacy
18 Is that fair?	18 manager.
19 A. Understood.	19 Q. Did you deal with controlled substances
20 Q. Second, you are under oath as if we were	20 in that role?
21 in a courtroom in front of a judge and a jury.	21 A. Yes, we did.
22 Do you understand that?	22 Q. Did you have any training or
23 A. I do.	23 experience -- did you obtain any training in that
24 Q. And if you answer my question, I'm going	24 role with complying with the Controlled Substances
25 to assume that you understand it. A different way	25 Act?

<p style="text-align: right;">Page 14</p> <p>1 A. The training was through pharmacy school 2 and our law classes to prepare us for meeting the 3 regulatory requirements.</p> <p>4 Q. In part of your schooling, did you cover 5 the Controlled Substances Act?</p> <p>6 A. We certainly did.</p> <p>7 Q. Did you cover the Controlled Substances 8 Act provisions that relate to manufacturers, 9 distributors, or dispensers?</p> <p>10 A. We covered the Controlled Substances Act 11 in its full scope as part of it.</p> <p>12 Q. Was the focus on the obligations of 13 pharmacists?</p> <p>14 A. You're going way back. So I would say 15 it covered the Act focused with pharmacy's role, 16 certainly.</p> <p>17 Q. Did you take any business classes in 18 pharmacy school that focused on the requirements 19 of manufacturers or distributors under the 20 Controlled Substances Act?</p> <p>21 MR. KOBRIN: Object to form.</p> <p>22 THE WITNESS: No.</p> <p>23 BY MR. HUDSON:</p> <p>24 Q. In 1997, you left that company; right?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">Page 16</p> <p>1 A. I was promoted to pharmacy district 2 manager.</p> <p>3 Q. And how long did you remain in that 4 role?</p> <p>5 A. Until approximately September 2006.</p> <p>6 Q. And what happened in September 2006?</p> <p>7 A. I was promoted to district manager.</p> <p>8 Q. And how long did you stay in the role as 9 district manager?</p> <p>10 A. Until I left Rite-Aid, December of 2007.</p> <p>11 Q. So if we go back to the 2001 to 2006 12 time period, describe for me what your role was as 13 a pharmacy district manager for Rite-Aid.</p> <p>14 A. So as a pharmacy district manager for 15 Rite-Aid, I had responsibility for the pharmacy 16 P & L, pharmacy operations of the 24 to 26 17 Rite-Aid locations that were in my district, 18 involving training, making sure that they were 19 executing to company standards and adhering to 20 policies and procedures.</p> <p>21 Q. In your role as a pharmacy district 22 manager, did you have any responsibility for 23 designing or creating policies or procedures?</p> <p>24 A. No.</p> <p>25 Q. Did you have -- in your role as pharmacy</p>
<p style="text-align: right;">Page 15</p> <p>1 Q. What did you do next?</p> <p>2 A. I married a girl from Erie and relocated 3 to Erie, Pennsylvania, Fairview actually, and 4 started working as a pharmacy manager at a 5 Rite-Aid pharmacy.</p> <p>6 Q. And that was a -- that was a Rite-Aid 7 pharmacy in Erie, Pennsylvania?</p> <p>8 A. Union City was the actual town, just a 9 little town outside of Erie.</p> <p>10 Q. And how long did you work at that 11 pharmacy?</p> <p>12 A. Until about 1999. And then I was 13 transferred into a Rite-Aid store in Erie.</p> <p>14 Q. And then how long did you stay at that 15 store?</p> <p>16 A. Until 2001, approximately September.</p> <p>17 Q. So from 1997 to 1999, was your role as a 18 pharmacist at a particular pharmacy?</p> <p>19 A. Correct.</p> <p>20 Q. And then from 1999 to 2001, was your 21 role, again, as a pharmacist at a particular 22 pharmacy?</p> <p>23 A. It was.</p> <p>24 Q. And then in 2001, what was your new 25 role?</p>	<p style="text-align: right;">Page 17</p> <p>1 district manager, did you play any role in 2 adhering to the requirements of the suspicious 3 order monitoring requirements of the Controlled 4 Substances Act?</p> <p>5 MR. KOBRIN: Object to form.</p> <p>6 THE WITNESS: The -- from the suspicious 7 order monitoring, no. That would have been 8 handled at the distribution level, not the retail 9 level.</p> <p>10 BY MR. HUDSON:</p> <p>11 Q. In your role as a pharmacy district 12 manager at Rite-Aid, did you have any knowledge of 13 the requirements of the suspicious order 14 monitoring system, any of those requirements under 15 the Controlled Substances Act?</p> <p>16 MR. KOBRIN: Object to form.</p> <p>17 THE WITNESS: Can you be more specific, 18 please?</p> <p>19 BY MR. HUDSON:</p> <p>20 Q. Sure. In your role as a pharmacy 21 district manager, did you understand that the 22 Controlled Substances Act included specific 23 requirements for manufacturers and distributors to 24 monitor suspicious orders of controlled 25 substances?</p>

<p style="text-align: right;">Page 18</p> <p>1 MR. KOBRIN: Object to form.</p> <p>2 THE WITNESS: That was covered in</p> <p>3 pharmacy school in the -- in the law class, as</p> <p>4 stated previously.</p> <p>5 In the day-to-day operation, the role of the</p> <p>6 pharmacy district manager was execution of the --</p> <p>7 making sure the individual pharmacies were</p> <p>8 compliant with the rules and regulations under the</p> <p>9 Controlled Substances Act, as well as the state</p> <p>10 boards of pharmacy.</p> <p>11 BY MR. HUDSON:</p> <p>12 Q. In your role though as the pharmacy</p> <p>13 district manager, did you gain any knowledge about</p> <p>14 the requirements for distributors to monitor</p> <p>15 suspicious orders under the Controlled Substances</p> <p>16 Act?</p> <p>17 MR. KOBRIN: Object to form.</p> <p>18 THE WITNESS: As a pharmacy district</p> <p>19 manager, no. That was not in play.</p> <p>20 BY MR. HUDSON:</p> <p>21 Q. And did you gain any knowledge as a</p> <p>22 district manager?</p> <p>23 A. No.</p> <p>24 Q. So is it fair to say that when you left</p> <p>25 Rite-Aid in 200- -- December of 2007, any</p>	<p style="text-align: right;">Page 20</p> <p>1 THE WITNESS: There were no specific</p> <p>2 classes to that curriculum, to that part, unique</p> <p>3 to that.</p> <p>4 BY MR. HUDSON:</p> <p>5 Q. As you sit here today, can you</p> <p>6 describe -- and I know it's difficult because it's</p> <p>7 been a number of years.</p> <p>8 But can you describe what you understood from</p> <p>9 pharmacy school and your law classes about the</p> <p>10 requirements of distributors to monitor suspicious</p> <p>11 orders under the Controlled Substances Act?</p> <p>12 MR. KOBRIN: Are you asking what he</p> <p>13 understood --</p> <p>14 THE WITNESS: 23 years ago?</p> <p>15 MR. KOBRIN: -- during that time or</p> <p>16 today?</p> <p>17 MR. HUDSON: Right.</p> <p>18 BY MR. HUDSON:</p> <p>19 Q. As you exited pharmacy school, do you</p> <p>20 have any recollection of what you understood in</p> <p>21 terms of the requirements of a distributor to</p> <p>22 monitor suspicious orders under the Controlled</p> <p>23 Substances Act?</p> <p>24 MR. KOBRIN: Object to form.</p> <p>25 THE WITNESS: I don't have specific</p>
<p style="text-align: right;">Page 19</p> <p>1 knowledge that you had about the requirements for</p> <p>2 distributors in terms of monitoring suspicious</p> <p>3 orders under the Controlled Substances Act was</p> <p>4 acquired while in pharmacy school or law classes?</p> <p>5 MR. KOBRIN: Object to form.</p> <p>6 THE WITNESS: Correct. As it was not</p> <p>7 part of the job requirement, did not deal with</p> <p>8 that aspect.</p> <p>9 BY MR. HUDSON:</p> <p>10 Q. Let's talk then more specifically about</p> <p>11 what knowledge you acquired in pharmacy school and</p> <p>12 law classes about suspicious order monitoring</p> <p>13 system requirements.</p> <p>14 Can you be more specific about the knowledge</p> <p>15 that you gained?</p> <p>16 MR. KOBRIN: Object to form.</p> <p>17 THE WITNESS: We would have covered or</p> <p>18 we did cover the Controlled Substances Act as part</p> <p>19 of the curriculum.</p> <p>20 BY MR. HUDSON:</p> <p>21 Q. Can you recall any specific classes that</p> <p>22 you took that did a deeper dive specific to the</p> <p>23 requirements of distributors under the Controlled</p> <p>24 Substances Act to monitor suspicious orders?</p> <p>25 MR. KOBRIN: Object to form.</p>	<p style="text-align: right;">Page 21</p> <p>1 recollection of that from 24 years ago.</p> <p>2 BY MR. HUDSON:</p> <p>3 Q. I understand.</p> <p>4 And to the best of your recollection, do you</p> <p>5 have any memory of taking any classes that went</p> <p>6 into any of the specifics of what was required of</p> <p>7 distributors to monitor suspicious orders of</p> <p>8 controlled substances?</p> <p>9 MR. KOBRIN: Object to form.</p> <p>10 THE WITNESS: There were no specific</p> <p>11 classes distributor-focused.</p> <p>12 BY MR. HUDSON:</p> <p>13 Q. Then in December of 2007, did you leave</p> <p>14 Rite-Aid to join Giant Eagle?</p> <p>15 A. I did.</p> <p>16 Q. And at Giant Eagle, what role did you</p> <p>17 assume?</p> <p>18 A. Pharmacy district leader.</p> <p>19 Q. And at that time, was Giant Eagle a</p> <p>20 regional supermarket chain?</p> <p>21 A. Yes.</p> <p>22 Q. And just describe, if you could, what</p> <p>23 your role was as a pharmacy district leader.</p> <p>24 A. The role was parallel to the role at</p> <p>25 Rite-Aid in that, again, responsible for the</p>

<p style="text-align: right;">Page 22</p> <p>1 pharmacy profit and loss; for the execution of 2 initiatives; making sure the pharmacies were 3 compliant through audit checks of whether it was 4 state board or DEA; responsible for the 5 recruiting, on-boarding and training plans for 6 pharmacists and supporting them in what other 7 issues that they needed.</p> <p>8 Q. And you remained in your role as a 9 pharmacy district leader for about three years, a 10 little less than three years?</p> <p>11 A. A little less, correct.</p> <p>12 Q. December of 2007 to October of 2010?</p> <p>13 A. Correct.</p> <p>14 Q. Does that sound right?</p> <p>15 A. That is correct.</p> <p>16 Q. What district did you cover?</p> <p>17 A. My district was Youngstown to -- in 18 Ohio. So I had stores in Youngstown, Austintown, 19 north to as far west as Madison, Ohio, east 20 through Erie, and across Interstate 80 to DuBois 21 would probably be the -- DuBois, Pennsylvania -- 22 the furthest east.</p> <p>23 Q. Did you cover all of the pharmacies that 24 were located in Ohio?</p> <p>25 A. No; just that subset.</p>	<p style="text-align: right;">Page 24</p> <p>1 pharmacists. So counting part-timers, it may be 2 closer to -- it works out -- let me do the math 3 real quick. It's early. Maybe 90.</p> <p>4 Q. 90 to a hundred?</p> <p>5 A. Yeah. Yeah. Ballpark it.</p> <p>6 Q. Sure. At the time you were a pharmacy 7 district leader, to whom at Giant Eagle did you 8 report?</p> <p>9 A. I reported to Anthony Mollica.</p> <p>10 Q. What was his title?</p> <p>11 A. He was the vice president of pharmacy 12 operations, I believe, although his role -- his 13 title then may have been different. It may have 14 changed.</p> <p>15 Q. And was that true for the three, little 16 less than three years that you were pharmacy 17 district leader the entire time that you reported 18 to Mr. Mollica?</p> <p>19 A. I did.</p> <p>20 Q. Did he at some point leave Giant Aid -- 21 I mean Giant Eagle? Combining Rite-Aid...</p> <p>22 A. Yes; yes, he did.</p> <p>23 Q. And do you know when that occurred?</p> <p>24 A. I don't know the exact day or exact day 25 or month. In ballpark, it was maybe '14-ish, '13,</p>
<p style="text-align: right;">Page 23</p> <p>1 Q. What other districts were located in 2 Ohio at that time, if you can recall, or how many 3 other pharmacy district leaders were there that 4 covered stores in Ohio at that time?</p> <p>5 A. Sure. There were three other pharmacy 6 district leaders in Ohio and three other in 7 Pennsylvania.</p> <p>8 Q. So seven total pharmacy district leaders 9 at that time?</p> <p>10 A. Correct.</p> <p>11 Q. And did that change between when you 12 started in 2007 and then shifted roles towards the 13 end of 2010?</p> <p>14 A. I believe seven was maintained.</p> <p>15 Q. And how many pharmacists reported to you 16 in your district?</p> <p>17 A. I don't remember the exact number.</p> <p>18 Q. Any ballpark?</p> <p>19 A. Approximately 24 stores. But the exact 20 number of pharmacists, I don't remember.</p> <p>21 Q. Is there sort of an average or what's 22 typical of how many pharmacists were in each 23 store?</p> <p>24 A. So part of Rite-Aid, the stores that I 25 had had between two pharmacists to four full-time</p>	<p style="text-align: right;">Page 25</p> <p>1 '14. I don't recall off the tiptop of my head.</p> <p>2 Q. Sure. Do you recall who replaced him?</p> <p>3 A. Ultimately, it was Greg Carlson, was 4 named as the vice president of pharmacy 5 operations.</p> <p>6 Q. And to the best of your recollection, 7 that was in 2014?</p> <p>8 A. Yeah. Actually, 2014 sounds about 9 right.</p> <p>10 Q. At the time that you were a pharmacy 11 district leader, did you have any involvement with 12 designing or creating any policies or procedures 13 to comply with the Controlled Substances Act?</p> <p>14 A. I did not have any role in creating 15 policies.</p> <p>16 Q. At the time you were a pharmacy district 17 leader, did you gain any familiarity with the 18 requirements of the Controlled Substances Act that 19 applied to distributors of opioids?</p> <p>20 MR. KOBRIN: Object to form.</p> <p>21 THE WITNESS: As a pharmacy district 22 leader, no, I did not deal with that aspect.</p> <p>23 BY MR. HUDSON:</p> <p>24 Q. At the time you were a pharmacy district 25 leader, did you have any knowledge of whether</p>

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<p>1 Giant Eagle or HBC had a suspicious order 2 monitoring program?</p> <p>3 MR. KOBRIN: Object to form.</p> <p>4 BY MR. HUDSON:</p> <p>5 Q. Or system.</p> <p>6 MR. KOBRIN: Same objection.</p> <p>7 THE WITNESS: Yeah. I don't recall --</p> <p>8 BY MR. HUDSON:</p> <p>9 Q. I mean, to your --</p> <p>10 A. -- policies. I mean, I didn't -- yeah.</p> <p>11 I don't recall the policies that were in place for 12 suspicious order monitoring for HBC.</p> <p>13 BY MR. HUDSON:</p> <p>14 Q. To the best of your recollection, is it 15 fair to say that Giant Eagle and HBC did not have 16 a manual or a book where you could go and see what 17 suspicious order monitoring system existed for the 18 company?</p> <p>19 MR. KOBRIN: Object to form.</p> <p>20 THE WITNESS: I can't speak to that as I 21 was not in that role.</p> <p>22 BY MR. HUDSON:</p> <p>23 Q. At the time that you were a pharmacy 24 district leader, did you know that the Controlled 25 Substances Act required a registrant who was</p>	<p>1 referring to?</p> <p>2 BY MR. HUDSON:</p> <p>3 Q. Yes, yeah. At the time that --</p> <p>4 A. Okay.</p> <p>5 Q. At the time you were a pharmacy district 6 leader, what was your understanding of HBC or HBC 7 Service Company?</p> <p>8 A. Sure. That was our -- that HBC Service 9 was the generic distribution center. So it was an 10 in-house distribution facility.</p> <p>11 Q. When you say "generic," what do you mean 12 by that?</p> <p>13 A. The drug mix that we would see or that 14 was carried by that facility was focused on 15 generic legend drugs, and I believe -- yeah, 16 generic legend drugs --</p> <p>17 Q. So generic --</p> <p>18 A. -- to the best of my knowledge.</p> <p>19 Q. Sure.</p> <p>20 A. So from lisinopril to metformin.</p> <p>21 Q. You mean generic drugs as opposed to 22 brand drugs?</p> <p>23 A. Correct.</p> <p>24 Q. And that HBC distribution facility, do 25 you know when it began operations?</p>
<p>1 distributing controlled substances to design and 2 operate a suspicious order monitoring program?</p> <p>3 MR. KOBRIN: Object to form.</p> <p>4 THE WITNESS: As we stated earlier.</p> <p>5 BY MR. HUDSON:</p> <p>6 Q. So you knew that that requirement 7 existed --</p> <p>8 A. For all distributors.</p> <p>9 Q. Right. And, again, up through the point 10 in time that you were a pharmacy district leader 11 at Giant Eagle, any knowledge that you had of that 12 was derived from your time in pharmacy school and 13 law classes; correct?</p> <p>14 MR. KOBRIN: Object to form.</p> <p>15 THE WITNESS: I'd say that's fair.</p> <p>16 BY MR. HUDSON:</p> <p>17 Q. At the time that you were a pharmacy 18 district leader, did you understand that Giant 19 Eagle had a separate company called HBC Service 20 Company?</p> <p>21 MR. KOBRIN: Object to form.</p> <p>22 THE WITNESS: We knew -- yes. I know of 23 H- -- yeah, absolutely. HBC was the generic 24 warehouse. Whether it was a separate company or 25 not is -- a separate entity, is that what you're</p>	<p>1 A. It was before I started with the 2 company. So it was already up and running by the 3 time I transitioned over.</p> <p>4 Q. At the time that you were a pharmacy 5 district leader, did you learn that that facility 6 had obtained a license to distribute certain 7 controlled substances?</p> <p>8 MR. KOBRIN: Object to form.</p> <p>9 THE WITNESS: We knew -- I knew that the 10 pharmacy or that distribution center was able to 11 distribute Schedules IIIs, IVs, and Vs, but no 12 Schedule II controlled substances, based on the 13 ordering system and what the stores received.</p> <p>14 BY MR. HUDSON:</p> <p>15 Q. And at the time that you were a pharmacy 16 district leader, did you make distinctions between 17 Schedule II and Schedule III controlled 18 substances?</p> <p>19 A. How do you mean?</p> <p>20 Q. Well, I mean, you've alluded that there 21 were different ordering systems; right?</p> <p>22 A. Sure.</p> <p>23 Q. So did you understand that the 24 Schedule II controlled substances were being 25 shipped in from McKesson or Anda?</p>

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<p>1 A. Absolutely.</p> <p>2 Q. And --</p> <p>3 A. Via the 222 form, triplicate form.</p> <p>4 Q. And what is the 222 form?</p> <p>5 A. That's the DEA's form to order</p> <p>6 Schedule II controlled substances.</p> <p>7 Q. And at the time you were a pharmacy</p> <p>8 district leader, did you understand that in 2009,</p> <p>9 HBC started to act as a distributor for</p> <p>10 Schedule III controlled substances?</p> <p>11 A. In 2009, I was with Rite-Aid. So, no, I</p> <p>12 did not.</p> <p>13 Q. Right. Did you learn at some point in</p> <p>14 your role as a pharmacy district leader, though,</p> <p>15 that HBC had begun to distribute Schedule III</p> <p>16 controlled substances?</p> <p>17 A. When I on-boarded with Giant Eagle, so</p> <p>18 in December, and then through my training in the</p> <p>19 subsequent -- following January, yes, I knew that</p> <p>20 Schedule IIIs, IVs, and Vs could come from HBC.</p> <p>21 Q. At the time you were a pharmacy district</p> <p>22 leader, did you ever visit the HBC warehouse?</p> <p>23 A. Actually, can I -- I apologize. Can I</p> <p>24 go back to that?</p> <p>25 Q. Sure.</p>	<p>1 A. No.</p> <p>2 Q. So in October of 2010, you were promoted</p> <p>3 to senior manager, pharmacy quality and</p> <p>4 compliance?</p> <p>5 A. That's correct.</p> <p>6 Q. And did you remain in that role until</p> <p>7 March of 2016?</p> <p>8 A. That is correct.</p> <p>9 Q. Why did you leave Giant Eagle in March</p> <p>10 of 2016?</p> <p>11 A. So Giant Eagle, as part of a cost</p> <p>12 reduction, was reorganizing their corporate</p> <p>13 offices. And I was offered a severance,</p> <p>14 essentially.</p> <p>15 Now, I had been commuting from Erie to</p> <p>16 Pittsburgh four days a week, so 260 miles a day</p> <p>17 the round trip. And it was an -- and had been on</p> <p>18 the road, as we discussed, since 2001 as pharmacy</p> <p>19 district leader and the roles. And it was an</p> <p>20 opportunity to go from 260 miles a day to 18.</p> <p>21 And, actually, I couldn't be happier for it.</p> <p>22 Q. What have you done since leaving Giant</p> <p>23 Eagle?</p> <p>24 A. So I am a pharmacy manager again at a</p> <p>25 Rite-Aid location in Erie.</p>
<p style="text-align: center;">Page 31</p> <p>1 A. You said 2009. So, yes, I was already</p> <p>2 with Giant Eagle. I apologize.</p> <p>3 Q. That's okay.</p> <p>4 A. Yes. I knew that we did receive</p> <p>5 Schedule IIIs, IVs, and Vs then.</p> <p>6 Q. Just so we clean up the record --</p> <p>7 A. Sure.</p> <p>8 Q. -- between December of 2007 and 2010,</p> <p>9 when you were a pharmacy district leader, there</p> <p>10 came a time in 2007 when you learned that HBC was</p> <p>11 beginning to act as a distributor for Schedule III</p> <p>12 controlled substances?</p> <p>13 MR. KOBRIN: Object to form.</p> <p>14 You said 2007.</p> <p>15 BY MR. HUDSON:</p> <p>16 Q. I'm saying 2009 --</p> <p>17 A. 2009.</p> <p>18 Q. -- you learned --</p> <p>19 A. Correct.</p> <p>20 Q. -- that HBC became a distributor for</p> <p>21 controlled substances.</p> <p>22 I'm not sure I cleaned up the record, but I</p> <p>23 think we're on the same page.</p> <p>24 At the time you were a pharmacy district</p> <p>25 leader, did you ever visit the HBC warehouse?</p>	<p style="text-align: center;">Page 33</p> <p>1 Q. Is it one of the locations that you were</p> <p>2 the manager at back in the '90s?</p> <p>3 A. No.</p> <p>4 Q. Different location?</p> <p>5 A. Yeah, different locations.</p> <p>6 Q. But you've got no -- you're just located</p> <p>7 in a single store now?</p> <p>8 A. Correct. I'm a pharmacy manager again.</p> <p>9 Q. Is it a similar role to the role that</p> <p>10 you had in the two different Rite-Aid stores --</p> <p>11 A. It is.</p> <p>12 Q. -- from '97 to '99 --</p> <p>13 A. It is.</p> <p>14 Q. -- and then '99 to 2001?</p> <p>15 A. That is -- that is correct.</p> <p>16 Q. If you could, just describe what -- what</p> <p>17 was the -- was your severance package, I think is</p> <p>18 how you described it, was that an opportunity that</p> <p>19 was offered to employees -- all executives at</p> <p>20 Giant Eagle?</p> <p>21 A. I can't speak for other executives.</p> <p>22 Q. Did somebody from Giant Eagle</p> <p>23 specifically approach you to --</p> <p>24 A. Yeah. My supervisor did, yes.</p> <p>25 Q. And who was your supervisor?</p>

<p style="text-align: right;">Page 34</p> <p>1 A. Then, as stated before, Greg Carlson. 2 Q. And did Mr. Carlson describe this buyout 3 as an opportunity unique to you? 4 MR. KOBRIN: Object to form. 5 THE WITNESS: We didn't discuss any 6 offers to anybody else. So to my knowledge, it 7 was unique to me. 8 BY MR. HUDSON: 9 Q. As far as you're aware at this time in 10 March of 2016, there were not any other executives 11 who left Giant Eagle with a similar exit package? 12 MR. KOBRIN: Object to form. 13 THE WITNESS: To that point, no. But 14 there were others that followed. 15 BY MR. HUDSON: 16 Q. Was there any connection between this 17 offer to you in March of 2016 and the opening of 18 the new Giant Eagle Rx distribution center? 19 A. I don't believe that they were 20 connected, to my understanding. 21 Q. Is it your understanding, though, that 22 Giant Eagle did open a new distribution center -- 23 A. Oh, yes. 24 Q. -- in February of 2016? 25 A. Um-hum.</p>	<p style="text-align: right;">Page 36</p> <p>1 that I recall. 2 When? I don't remember dates. 3 Q. Did you have a formal review process? 4 A. Yes. The company did. 5 Q. Did that occur with Mr. Carlson? 6 A. As a supervisor, that would have been 7 his responsibility. 8 Q. And did you meet with him one-on-one, in 9 person? 10 A. Yes. 11 Q. How often did that occur? 12 A. We had meetings in his office on a 13 regular basis. But as far as a performance 14 management, that was an annual review process. 15 Q. Were there written reviews that were 16 created in connection with the annual review 17 process? 18 A. I believe so. 19 Q. And those would exist from 2008 20 through -- well, those would exist from, I guess, 21 2011 to 2016? 22 MR. KOBRIN: Object to form. 23 THE WITNESS: Correct. 24 BY MR. HUDSON: 25 Q. And during that time period from 2011 to</p>
<p style="text-align: right;">Page 35</p> <p>1 Q. And one of your roles, when you were 2 still at Giant Eagle in 2015 and early 2016, was 3 to help take steps to prepare for the opening of 4 that; correct? 5 A. Correct. 6 MR. KOBRIN: Object to form. 7 BY MR. HUDSON: 8 Q. Prior to leaving Giant Eagle in March of 9 2016, were Mr. Carlson or any other executives in 10 leadership ever critical of you in your role as 11 senior manager, pharmacy quality compliance? 12 MR. KOBRIN: Object to form. 13 THE WITNESS: Can you be more specific? 14 BY MR. HUDSON: 15 Q. Prior to leaving Giant Eagle in March of 16 2016, did Mr. Carlson or any other of the 17 executives express to you criticism of the job 18 that you -- the compliance role that you were 19 doing? 20 MR. KOBRIN: Object to form. 21 THE WITNESS: We had discussions as to 22 what we could do differently. 23 BY MR. HUDSON: 24 Q. When did those discussions occur? 25 A. Not as a performance management piece,</p>	<p style="text-align: right;">Page 37</p> <p>1 2016, do you ever recall obtaining a review in 2 which your performance was criticized? 3 MR. KOBRIN: Object to form. 4 THE WITNESS: In the annual reviews, no. 5 BY MR. HUDSON: 6 Q. How about in your informal -- 7 A. I mean -- 8 Q. -- meetings with Mr. Carlson? 9 A. We would have discussions on timelines, 10 certainly. 11 Q. How would you describe your relationship 12 with Mr. Carlson? 13 A. Professional. 14 Q. Did you see eye to eye on how to run the 15 compliance program at Giant Eagle? 16 MR. KOBRIN: Object to form. 17 THE WITNESS: I don't believe we had 18 disagreements as to how it should go. 19 BY MR. HUDSON: 20 Q. Did Mr. Carlson -- you indicated 21 timelines. Was Mr. Carlson critical of you or the 22 compliance department in terms of implementing 23 policies or procedures? 24 MR. KOBRIN: Object to form. 25 THE WITNESS: Well, one is simply a -- I</p>

<p style="text-align: right;">Page 38</p> <p>1 might not have been the fastest to respond to 2 emails, so the inbox would grow. 3 And then there's some timeline discussion 4 around some accreditations, whether it was for 5 specialty pharmacy or VAWD. 6 BY MR. HUDSON: 7 Q. You said specialty pharmacy. And what 8 was the other? Was it an acronym? 9 A. Yes. VAWD. Gosh. VAWD -- Wholesale 10 Distributor -- Verified -- Verified Accredited 11 Wholesale Distributor. 12 I don't remember the acronym. 13 Q. That's close enough. 14 A. Since then, I... 15 Q. Okay. Anything else you can think 16 about -- I mean that you can think of, as you sit 17 here today, that Mr. Carlson was critical of you 18 or the compliance department about? 19 MR. KOBRIN: Object to form. 20 THE WITNESS: From me, it was difficult 21 to get into an early meeting since I had a 22 two-hour commute in from Erie, and the weather is 23 notoriously sketchy this time of year. So perhaps 24 punctuality or being available during those times. 25</p>	<p style="text-align: right;">Page 40</p> <p>1 BY MR. HUDSON: 2 Q. In October of 2010, when you assumed the 3 role of senior manager of compliance. 4 A. Good gosh. Perhaps -- so the top 5 corporate compliance officer, the only name I can 6 think of -- 7 MR. KOBRIN: Don't speculate. 8 THE WITNESS: Yeah. I don't remember 9 the exact name of the person who was in -- or if 10 that was his role, his title. 11 BY MR. HUDSON: 12 Q. Can you recall the name of anyone who 13 was more senior to you in terms of a compliance 14 role at Giant Eagle? 15 A. On the legal side, in the legal 16 department, Rick Russell was the head of the 17 department, as the attorney. 18 Who else was in there? From HIPAA 19 compliance, it fell under Robbi Robinson. 20 I don't remember on top who was -- for the 21 whole company piece back then. 22 Q. When you assumed the role of senior 23 manager, did you have two different 24 responsibilities, one being pharmacy quality and 25 the other being compliance?</p>
<p style="text-align: right;">Page 39</p> <p>1 BY MR. HUDSON: 2 Q. So you were -- were you commuting both 3 ways every day? 4 A. Um-hum, yes. 5 Q. Two hours there and two hours back? 6 A. Correct. 7 Q. Other than punctuality, anything else 8 you can recall that Mr. Carlson was critical of 9 you or the compliance department about? 10 MR. KOBRIN: Object to form. Asked and 11 answered. 12 THE WITNESS: Nothing that pops in. 13 BY MR. HUDSON: 14 Q. I want to focus then on your position as 15 the senior manager of compliance. 16 Were you the company's top compliance 17 officer? 18 MR. KOBRIN: Object to form. 19 THE WITNESS: No. For the company, no. 20 BY MR. HUDSON: 21 Q. Who was the top compliance officer? 22 MR. KOBRIN: Object to form. 23 Are you talking about when he started or -- 24 THE WITNESS: Yeah. What timeframe? 25</p>	<p style="text-align: right;">Page 41</p> <p>1 A. Correct. 2 Q. And did you have two separate teams for 3 those two separate roles? 4 A. I had two people that reported to me, 5 one for each. 6 Q. And then did they have a team underneath 7 them? 8 A. No. 9 Q. Did they have anyone underneath them? 10 A. Nobody else reported to them. 11 Q. From October of 2010 to March of 2016, 12 were you the head compliance manager at Giant 13 Eagle focused on designing and operating policies 14 to comply with the Controlled Substance Act? 15 MR. KOBRIN: Object to form. 16 THE WITNESS: For the -- the initial 17 focus was on the retail pharmacies. 18 BY MR. HUDSON: 19 Q. In your role though from October of 2010 20 to March of 2016, just describe for me or list for 21 me every person who would be involved with 22 designing or operating a system to comply with the 23 Controlled Substances Act. 24 MR. KOBRIN: Object to form. 25 Within his group or the entire company?</p>

<p style="text-align: right;">Page 42</p> <p>1 MR. HUDSON: At Giant Eagle. 2 THE WITNESS: Oh, good heavens. 3 MR. KOBRIN: To the extent you can. 4 THE WITNESS: What's that? 5 MR. KOBRIN: To the extent you can. 6 THE WITNESS: Yeah. On the -- well, it 7 would involve the pharmacy IT group which, when I 8 started, would have fallen under Joe Mishanski, 9 and under him Shawn Voyten. Let's see. And then 10 their admin for that piece.</p> <p>11 BY MR. HUDSON:</p> <p>12 Q. So Shawn Voyten. And who was the other 13 person? I'm sorry.</p> <p>14 A. The head of the pharmacy information 15 technology piece at the time was Joe Mishanski.</p> <p>16 Q. And where were -- where were the -- 17 where was the pharmacy IT group physically 18 located?</p> <p>19 A. It was located in -- it was at the 20 corporate campus in a couple different buildings.</p> <p>21 For policies and procedures with regard to 22 controlled substances, again, I was involved in 23 that, in creating policies along with George 24 Chunderlik.</p> <p>25 In our policies and procedures group, where</p>	<p style="text-align: right;">Page 44</p> <p>1 A. In that room or that was in that 2 procedure meeting? 3 We tried to pull stakeholders in from the 4 other operational groups. So we may at times have 5 had one of the pharmacy project managers in there. 6 So that would have been Dominic Bertucci.</p> <p>7 Let me think who else would have been 8 involved in policies and procedures with regard to 9 controlled substances.</p> <p>10 In those monthly meetings, we would discuss 11 all types of policies that involved pharmacy.</p> <p>12 MR. KOBRIN: I don't want you to get 13 into too much detail.</p> <p>14 THE WITNESS: Okay.</p> <p>15 MR. KOBRIN: You've already identified 16 that counsel were in those meetings and involved 17 in those meetings. So just be aware or cognizant 18 that you're not sharing privileged information.</p> <p>19 BY MR. HUDSON:</p> <p>20 Q. Did those monthly meetings occur during 21 the entire time that you were the senior manager 22 of compliance?</p> <p>23 A. Shortly after starting there. Starting 24 in that role I should say. Qualify that.</p> <p>25 Q. So when you initially started in the</p>
<p style="text-align: right;">Page 43</p> <p>1 we dealt with more than just controlled substances 2 but pharmacy quality policies as well, that 3 also -- that group involved Adrienne Anthony, 4 which I don't know her married name now. So she 5 was also my other person that reported to me on 6 the pharmacy quality side.</p> <p>7 Steve Zubrow, which was Marcus & Shapira 8 counsel. Jane Barnes, who was internal risk 9 compliance for Giant Eagle, then later Mary 10 Gibson. And Rick Springer was part of that as 11 well. He provided the -- essentially, the 12 training modules, would create the training 13 modules.</p> <p>14 Q. Tell me Rick's last name again.</p> <p>15 A. Springer.</p> <p>16 Q. Springer. And training modules for 17 what?</p> <p>18 A. So computer-based training modules for 19 the pharmacists and pharmacy technicians to do in 20 the stores.</p> <p>21 Q. Jane Barnes and Mary Gibson, those were 22 attorneys at Giant Eagle?</p> <p>23 A. Correct. They were both internal 24 counsel.</p> <p>25 Q. Anyone else?</p>	<p style="text-align: right;">Page 45</p> <p>1 role of senior manager of compliance, you didn't 2 have monthly meetings, but at some point shortly 3 thereafter you began to; is that fair?</p> <p>4 A. Yeah. I can't say what they did before. 5 The role was newly created. When I came, it 6 was -- I promoted into a newly created role.</p> <p>7 (HBC-Millward Exhibit 1 was marked.)</p> <p>8 BY MR. HUDSON:</p> <p>9 Q. Mr. Millward, I'm just going to hand you 10 what we've marked as Exhibit 1. And Exhibit 1, 11 we've put an identifier on the top right that's 12 P-HBC 6016.</p> <p>13 And this appears to be an organizational 14 chart that was created on or around November 13th 15 of 2014. Do you see that?</p> <p>16 A. Yes. I see that on the page.</p> <p>17 Q. And here, as you've testified to, this 18 shows you as the senior manager, pharmacy quality 19 and compliance. And then it shows you reporting 20 up to Greg Carlson. Do you see that?</p> <p>21 A. That's correct.</p> <p>22 Q. And then, as you testified, underneath 23 you, you've got --</p> <p>24 A. I forgot about Alicia.</p> <p>25 Q. -- a coordinator of pharmacy compliance;</p>

<p>1 right?</p> <p>2 A. Correct.</p> <p>3 Q. And then you've got a manager of</p> <p>4 compliance. And that's Mr. Chunderlik?</p> <p>5 A. Correct.</p> <p>6 Q. And then you've got a manager of</p> <p>7 quality. And that's Adrienne Anthony?</p> <p>8 A. Correct.</p> <p>9 Q. Did this basic structure exist the</p> <p>10 entire time that you were the senior manager of</p> <p>11 pharmacy quality and compliance?</p> <p>12 A. With the exception -- well, George and</p> <p>13 Adrienne reported in to me shortly after going</p> <p>14 into the role. And I apologize. I forgot about</p> <p>15 Alicia. She was Anthony's admin until he left.</p> <p>16 And then she moved under my side, under my org</p> <p>17 chart.</p> <p>18 Q. But, otherwise, this is the structure of</p> <p>19 the group during the entire time that you were the</p> <p>20 senior manager of pharmacy quality and compliance</p> <p>21 basic group?</p> <p>22 A. Under me, correct. There may have been</p> <p>23 some shifts under the other personnel.</p> <p>24 Q. Before assuming the role as Giant</p> <p>25 Eagle's head of -- or Giant Eagle's role as senior</p>	<p>Page 46</p> <p>1 MR. KOBRIN: Object to form.</p> <p>2 THE WITNESS: Can you repeat the</p> <p>3 question, please?</p> <p>4 BY MR. HUDSON:</p> <p>5 Q. Sure. At the time you assumed your</p> <p>6 compliance role at Giant Eagle, were you tasked</p> <p>7 with monitoring the company's policies and</p> <p>8 procedures that related to the Controlled</p> <p>9 Substances Act?</p> <p>10 MR. KOBRIN: Same objection.</p> <p>11 THE WITNESS: I was responsible for</p> <p>12 reviewing the policies and procedures for all</p> <p>13 legal compliance beyond just the CSA, to include</p> <p>14 state board of pharmacy, that the pharmacies were</p> <p>15 up to date and our policies were in line and</p> <p>16 complying.</p> <p>17 BY MR. HUDSON:</p> <p>18 Q. Could you estimate, during the time that</p> <p>19 you were the senior manager of compliance at Giant</p> <p>20 Eagle, approximately what percentage of your time</p> <p>21 related to compliance with the Controlled</p> <p>22 Substances Act?</p> <p>23 A. I couldn't give a percent specific.</p> <p>24 Q. Even a ballpark?</p> <p>25 A. I don't think it would be an accurate</p>
<p>Page 47</p> <p>1 manager of compliance, did you have any prior work</p> <p>2 experience in a compliance role?</p> <p>3 MR. KOBRIN: Object to form. Asked and</p> <p>4 answered.</p> <p>5 THE WITNESS: No specific education or</p> <p>6 training beyond that.</p> <p>7 BY MR. HUDSON:</p> <p>8 Q. At the time that you assumed your</p> <p>9 compliance role at Giant Eagle, did you obtain any</p> <p>10 training to prepare you for your new role in</p> <p>11 compliance?</p> <p>12 MR. KOBRIN: Object to form.</p> <p>13 THE WITNESS: There were no classes or</p> <p>14 anything more than continuing education programs</p> <p>15 as part of maintaining a valid and active pharmacy</p> <p>16 license in the State of Pennsylvania.</p> <p>17 BY MR. HUDSON:</p> <p>18 Q. And you testified that your position was</p> <p>19 a newly created position; correct?</p> <p>20 A. That is correct.</p> <p>21 Q. At the time that you assumed the role of</p> <p>22 senior manager of compliance, were you tasked with</p> <p>23 monitoring the company's policies and procedures</p> <p>24 that were in place as it relates to the Controlled</p> <p>25 Substances Act?</p>	<p>Page 49</p> <p>1 number to say a definitive number.</p> <p>2 Q. Do you feel like it was a big part of</p> <p>3 your role, a small part of your role? Anything</p> <p>4 you could say to describe what compliance with the</p> <p>5 Controlled Substances Act --</p> <p>6 MR. KOBRIN: Object to form. He's</p> <p>7 already said it would be inaccurate to assess his</p> <p>8 percentage.</p> <p>9 THE WITNESS: There's no way to</p> <p>10 accurately say. The needs of the day and the</p> <p>11 issues or legislative changes would kind of</p> <p>12 dictate the -- and the company initiatives would</p> <p>13 kind of dictate the direction and energy spent.</p> <p>14 So to give an accurate time over the -- or an</p> <p>15 accurate percentage, I'm not able to box it in</p> <p>16 that way.</p> <p>17 BY MR. HUDSON:</p> <p>18 Q. Between 2011 and 2016, do you have a</p> <p>19 recollection of any legislative changes or company</p> <p>20 initiative changes that occurred as they relate to</p> <p>21 the Controlled Substances Act?</p> <p>22 A. Sure, there were.</p> <p>23 MR. KOBRIN: Object to form.</p> <p>24 THE WITNESS: There were a number of</p> <p>25 changes. The rescheduling of hydrocodone from a</p>

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<p>1 Schedule III to a Schedule II, that was when?</p> <p>2 October of '14-ish. I apologize. I don't</p> <p>3 remember the exact date that that occurred.</p> <p>4 Ohio made changes to their OARRS, for</p> <p>5 example, to where -- I believe it was unscheduled</p> <p>6 at the time, but Tramadol had to be reported in</p> <p>7 before it was -- before it became a Schedule --</p> <p>8 controlled substance. So just two examples.</p> <p>9 BY MR. HUDSON:</p> <p>10 Q. Any other examples you can think of?</p> <p>11 A. There were tech certification</p> <p>12 requirements from West Virginia. Sudafed</p> <p>13 requirement changes for reporting, rolling out the</p> <p>14 meth check, for example, for pseudoephedrine in</p> <p>15 the various states and the keeping up with those</p> <p>16 requirements.</p> <p>17 But I don't think I can list them all sitting</p> <p>18 here almost three years from then.</p> <p>19 Q. Sure. No, I understand. I'm just</p> <p>20 trying to get an understanding --</p> <p>21 A. Sure.</p> <p>22 Q. -- of what some of those would be.</p> <p>23 How about in terms of company initiatives,</p> <p>24 were there ever changes in company initiatives --</p> <p>25 MR. KOBRIN: Object to form.</p>	<p>1 towards the end. Opening stores in Ohio -- or I'm</p> <p>2 sorry. Licensure issues.</p> <p>3 Q. When you say "GERX," is that how you</p> <p>4 refer to the -- is that the Giant Eagle Rx</p> <p>5 distribution center?</p> <p>6 A. I believe that's what they refer to it</p> <p>7 now.</p> <p>8 Q. Okay.</p> <p>9 A. At the time it was the pharmacy</p> <p>10 distribution inside of what I believe was FFM, so</p> <p>11 Fresh Foods something. It's AFE. It's an acronym</p> <p>12 for everything.</p> <p>13 Q. Explain that to me, if you could.</p> <p>14 It was a distribution facility within Fresh</p> <p>15 Foods?</p> <p>16 MR. KOBRIN: Object to form.</p> <p>17 Is that a question?</p> <p>18 THE WITNESS: Yeah. Can you please --</p> <p>19 what do you -- can you ask that again?</p> <p>20 BY MR. HUDSON:</p> <p>21 Q. When GERX first opened, how would you</p> <p>22 describe that?</p> <p>23 A. It was a -- dedicated pharmacy</p> <p>24 distribution centers within the structure of an</p> <p>25 existing Giant Eagle distribution center, next to</p>
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<p>1 BY MR. HUDSON:</p> <p>2 Q. -- that caused you in your role in</p> <p>3 compliance to take action?</p> <p>4 MR. KOBRIN: Object to form.</p> <p>5 THE WITNESS: Seeking certifications or</p> <p>6 accreditations for ACC -- ACHC. I'm sorry. I</p> <p>7 think that's the American -- or the Accreditation</p> <p>8 Council for Healthcare, ballpark. URAC</p> <p>9 accreditation. DMEPOS accreditation.</p> <p>10 I don't know what URAC stands for. I can't</p> <p>11 remember. And DMEPOS, Durable Medical Equipment</p> <p>12 Point of -- no, no -- Prosthetics, Orthotics, I'll</p> <p>13 say Supplies. I don't remember.</p> <p>14 So that was through NABP, so the National</p> <p>15 Association of Boards of Pharmacy for that</p> <p>16 particular accreditation.</p> <p>17 And then VAWD accreditation, Verified</p> <p>18 Accredited Wholesale Distributor.</p> <p>19 BY MR. HUDSON:</p> <p>20 Q. Any other company initiatives you can</p> <p>21 think of that impacted your compliance role?</p> <p>22 A. Opening a specialty pharmacy. Having a</p> <p>23 call center pharmacy that had no product and only</p> <p>24 did off-site processing, prescription processing.</p> <p>25 And then the opening of the what is GERX</p>	<p>1 a Giant Eagle central fill pharmacy. That was one</p> <p>2 of the other initiatives.</p> <p>3 Q. And how did the structure of the GERX</p> <p>4 then change over time?</p> <p>5 MR. KOBRIN: Object to form.</p> <p>6 THE WITNESS: Well GERX was -- we'll</p> <p>7 call it GERX, because I didn't know it as GERX</p> <p>8 then, in that timeframe. But we'll refer to it</p> <p>9 from this point on.</p> <p>10 BY MR. HUDSON:</p> <p>11 Q. Okay.</p> <p>12 A. It opened a month before I left, I</p> <p>13 believe as we previously said, and initially, I</p> <p>14 think, only distributing -- distributing</p> <p>15 noncontrols first, I believe.</p> <p>16 Q. After you left Giant Eagle, have you</p> <p>17 maintained any knowledge base or do you know</p> <p>18 anything about how the facility has operated since</p> <p>19 you left?</p> <p>20 A. No, no.</p> <p>21 MR. KOBRIN: Do you want to take a</p> <p>22 break? Are you doing all right?</p> <p>23 THE WITNESS: I'm okay.</p> <p>24 MR. KOBRIN: Ten minutes or so. Is that</p> <p>25 all right with you, Ty?</p>

1 MR. HUDSON: Sure. 2 BY MR. HUDSON: 3 Q. I want to just talk about a compliance 4 program now. Do you agree that a company handling 5 prescription drugs should have an effective 6 compliance program? 7 MR. KOBRIN: Object to form. 8 THE WITNESS: The regulations state that 9 in there. But under the CSA, it's spelled out 10 within the Controlled Substances Act as the 11 requirements for a distributor. 12 BY MR. HUDSON: 13 Q. I guess my question though is just more 14 general. 15 Do you agree that a company handling 16 prescription drugs needs an effective compliance 17 program? 18 MR. KOBRIN: Object to form. 19 THE WITNESS: I believe the company 20 handling prescription drugs has an obligation to 21 be compliant with the rules and regulations set 22 forth. 23 BY MR. HUDSON: 24 Q. Do you agree that the purpose of a 25 compliance program in a company is to have	Page 54 1 BY MR. HUDSON: 2 Q. And if there isn't a legal requirement 3 to retain documents, then from a compliance 4 perspective, what would you do? 5 MR. KOBRIN: Object to form. 6 THE WITNESS: There's many aspects of 7 pharmacy that do have specific -- or that -- laws 8 that require documents to be retained for 9 prescribed amount of times -- or lengths of time. 10 Sorry. 11 And the compliance program must make sure 12 that those legal requirements are met. 13 BY MR. HUDSON: 14 Q. Do you agree it's easier to show 15 compliance with laws and regulations if a company 16 documents its actions in writing? 17 MR. KOBRIN: Object to form. 18 Easier to show to who? 19 MR. HUDSON: Just "Objection. Form" 20 please. 21 THE WITNESS: Yeah. Can you be more -- 22 BY MR. HUDSON: 23 Q. Do you agree -- 24 A. Can you restate that, please? 25 Q. Sure. Do you agree it is easier to show
Page 55 1 policies and procedures that prevent the 2 organization and employees from breaking laws and 3 regulations? 4 MR. KOBRIN: Object to form. 5 THE WITNESS: Policies and procedures 6 are put in place to ensure that all agents of the 7 organization are compliant with laws, rules, and 8 regulations. 9 BY MR. HUDSON: 10 Q. Do you agree that an effective 11 compliance program should include establishing 12 procedures for documenting actions in writing to 13 show compliance with laws and regulations? 14 MR. KOBRIN: Object to form. 15 THE WITNESS: Restate the question. 16 BY MR. HUDSON: 17 Q. Do you agree that an effective 18 compliance program should include establishing 19 procedures for documenting actions in writing to 20 be able to show compliance with the law? 21 MR. KOBRIN: Object to form. 22 THE WITNESS: I believe that if it is 23 required by law to retain those documents, then 24 the program should be designed to retain the 25 documents as legally required.	Page 55 1 compliance with laws and regulations if a company 2 documents its actions in writing? 3 MR. KOBRIN: Object to form. 4 THE WITNESS: Where they're required to 5 retain those documents, then yes. 6 BY MR. HUDSON: 7 Q. I'm just saying, in general, do you 8 agree that a company is going to have an easier 9 time showing it complied with the law if it 10 documents in writing the actions that it took? 11 MR. KOBRIN: Object to form. 12 THE WITNESS: To document or to show 13 compliance to whom? 14 BY MR. HUDSON: 15 Q. To anyone. 16 A. Again, I believe the compliance program 17 should be designed that it meets the requirements 18 for documentation. 19 Q. From a corporate perspective, in your 20 view as a nonlawyer, are there strategic reasons 21 to not retain documents and put them -- and put in 22 writing the actions that are being taken by the 23 company? 24 MR. KOBRIN: Object to form. 25 THE WITNESS: I don't think there's

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<p>1 any -- again, I'm not sure I follow where you're 2 leading there. 3 BY MR. HUDSON: 4 Q. I'm just saying: You were the senior 5 manager of compliance at Giant Eagle for about six 6 years; right? Five years? 7 A. Yeah; correct, correct. 8 Q. And what I'm saying is: During that 9 time, would you agree that from a compliance 10 perspective, it's going to be easier for Giant 11 Eagle to show it complied with the law if Giant 12 Eagle put the actions that it took in writing? 13 MR. KOBRIN: Object to form. 14 THE WITNESS: And that was through our 15 policies and procedures. 16 BY MR. HUDSON: 17 Q. Right. I guess what I'm trying to get 18 at is just, "yes" or "no," do you agree with the 19 idea that it's easier for Giant Eagle to show it 20 complied with the law if it puts in writing the 21 actions that it's taking? 22 MR. KOBRIN: Object to form. 23 THE WITNESS: And that would be correct, 24 why I would say yes, through the policies and 25 procedures.</p>	<p>1 video record. 2 BY MR. HUDSON: 3 Q. Before the break we were talking about 4 compliance. HBC did not have its own compliance 5 group; correct? 6 MR. KOBRIN: Object to form. 7 THE WITNESS: That I'm aware of at the 8 time specific, no. 9 BY MR. HUDSON: 10 Q. In other words, between 2009 and 2016, 11 to the best of your knowledge, HBC did not have a 12 compliance department? 13 A. To my knowledge, it did not have its own 14 dedicated compliance department. 15 Q. But HBC did rely on the Giant Eagle 16 compliance department; right? 17 A. The pharmacy -- 18 MR. KOBRIN: Object to form. 19 THE WITNESS: The pharmacy merchandising 20 group that oversaw HBC. And then as we went 21 through the certifications, my compliance group. 22 BY MR. HUDSON: 23 Q. And what is the pharmacy merchandising 24 group? Is that the procurement group? 25 A. Under an older version of the the org</p>
<p style="text-align: center;">Page 59</p> <p>1 BY MR. HUDSON: 2 Q. So in your time as the senior manager of 3 compliance, was one of the -- was one of the roles 4 that you undertook to make sure that there were 5 policies or procedures in place so that important 6 actions being taken at Giant Eagle were documented 7 in writing? 8 MR. KOBRIN: Object to form. 9 THE WITNESS: I don't recall doing any 10 policies and procedures beyond -- for document 11 retention. That would have been through the 12 corporate policy or through the -- yeah. Those 13 would have been above my area. That would have 14 encompassed all of the corporation, not just 15 exclusive to pharmacy. 16 Pharmacy would be required per the various 17 document retention requirements for the boards of 18 pharmacy, for example. 19 MR. KOBRIN: It's been about ten 20 minutes. Do you want to take a break now? 21 THE WITNESS: Yeah. Let's take a break. 22 THE VIDEOGRAPHER: 10:13. We're off the 23 video record. 24 (Recess from 10:13 a.m. to 10:30 a.m.) 25 THE VIDEOGRAPHER: 10:30. We're on the</p>	<p style="text-align: center;">Page 61</p> <p>1 chart, correct. 2 Q. And if you could, between 2009 and 2016, 3 just describe for me what you recall about how -- 4 what the makeup was of the pharmacy merchandising 5 group. 6 MR. KOBRIN: Object to form. 7 THE WITNESS: Let's see. When I 8 started, the -- 2009. Sorry. 9 BY MR. HUDSON: 10 Q. Just what you recall. Who was -- 11 A. Right. 12 Q. Who was the head of it and -- 13 A. So the -- 14 Q. -- and how did it operate? 15 A. I'm sorry. The vice president of 16 pharmacy at the time was Randy Heiser. And then 17 Greg Carlson oversaw the merchandising group. 18 Q. So Randy Heiser was the -- say it 19 again -- the vice president of -- 20 A. Pharmacy. 21 Q. -- pharmacy. 22 A. Greg ran the merchandising group. I 23 don't remember what his title was at the time. 24 And Anthony was the operations. 25 Q. So would it be fair to say that the</p>

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<p>1 executive most responsible for HBC at that time 2 would have been Randy Heiser? 3 MR. KOBRIN: Object to form. 4 THE WITNESS: As the pharmacy 5 distribution, following with all of pharmacy, 6 rolling into Randy as the top of the pharmacy org 7 chart. 8 BY MR. HUDSON: 9 Q. And then you worked with Mr. Heiser, 10 Mr. Carlson, and Anthony to -- from a compliance 11 perspective? 12 A. Under Anthony, correct. And then later, 13 of course, under Greg as his role changed. 14 Q. But did Mr. Heiser, Mr. Carlson and 15 Anthony look to you and your compliance group to 16 establish policies and procedures for HBC? 17 MR. KOBRIN: Object to form. 18 THE WITNESS: Policies and procedures 19 for all of pharmacy, our controlled substance 20 handling guidelines. So it was as a pharmacist 21 knowing the laws and understanding the impact of 22 compliance in creating those policies and 23 procedures. 24 So to answer your question simply, yes, as 25 far as all pharmacy policies and procedures.</p>	<p>1 early/late piece, but 2009. 2 BY MR. HUDSON: 3 Q. The HBC warehouse opened in 2009; fair? 4 MR. KOBRIN: Object to form. Misstates 5 the record. 6 BY MR. HUDSON: 7 Q. I'm sorry. Josh makes a good point. 8 A. Yes. 9 Q. The HBC warehouse started distributing 10 controlled substances in 2009; correct? 11 A. As far as I'm aware. 12 Q. And then in October of 2010, you assumed 13 the role of senior manager of compliance at Giant 14 Eagle; correct? 15 A. That is correct. Or quality and 16 compliance, but correct. 17 Q. Right. But specific to the compliance 18 role -- 19 A. Sure. 20 Q. -- was one of your responsibilities when 21 you assumed that role to evaluate the policies and 22 procedures that existed at HBC? 23 A. As they came up. So HBC's policies and 24 procedures and then subsequently GERX were 25 reviewed when the accreditations became necessary.</p>
<p style="text-align: center;">Page 63</p> <p>1 BY MR. HUDSON: 2 Q. So yes, Mr. Heiser, Mr. Carlson and 3 Anthony were looking to you and the Giant Eagle 4 compliance group to establish policies and 5 procedures for HBC? 6 MR. KOBRIN: Object to form. 7 THE WITNESS: For all of pharmacy, the 8 pharmacy group, as needed, as needed. 9 BY MR. HUDSON: 10 Q. And would that include HBC? 11 A. It came to, yes. 12 Q. At what point in time did it come to 13 be -- did HBC become part of pharmacy? 14 MR. KOBRIN: Object to form. 15 THE WITNESS: HBC was part of pharmacy 16 when it opened, but I was not involved -- I was 17 not in the compliance role at the time for those 18 policy and procedure creation. 19 But as questions would arise, my group was 20 the one that would research and advise. 21 BY MR. HUDSON: 22 Q. So the HBC warehouse opened in late 23 2009; right? 24 MR. KOBRIN: Object to form. 25 THE WITNESS: I don't know the</p>	<p style="text-align: center;">Page 65</p> <p>1 But were -- part of the controlled substance 2 dispensing and controlled substance handling 3 guidelines were actually done through retail as 4 far as one of the levels of controls that were 5 created for the stores, which HBC is the only -- 6 the stores are the only -- HBC only distributed to 7 Giant Eagle, to ourselves. 8 Q. My question though is just at the time 9 that you became the senior manager of compliance 10 at Giant Eagle in October of 2010, were you 11 informed that you were responsible for monitoring 12 the policies and procedures that existed at HBC? 13 MR. KOBRIN: Object to form. 14 THE WITNESS: Specific to HBC, those 15 stayed under Greg. They did not fall under the 16 pharmacy compliance piece, which was more 17 operationally focused. 18 BY MR. HUDSON: 19 Q. At some point in time, did you assume 20 the role of becoming responsible for monitoring 21 the policies and procedures at HBC? 22 MR. KOBRIN: Object to form. 23 THE WITNESS: The monitoring of policies 24 and procedures at HBC? 25 When those -- I had involvement in creating</p>

<p style="text-align: right;">Page 66</p> <p>1 policies and procedures that were necessary to 2 meet -- as part of our group, to meet the 3 requirements under VAWD accreditation, as an 4 example.</p> <p>5 BY MR. HUDSON:</p> <p>6 Q. I guess what I'm trying to understand 7 is -- and let's zero it in more specifically --</p> <p>8 A. Sure.</p> <p>9 Q. -- to HBC policies and procedures 10 related to the Controlled Substances Act.</p> <p>11 A. Okay.</p> <p>12 Q. So at the time that you became the 13 senior manager of compliance, who within the 14 organization was responsible for the policies and 15 procedures at HBC to comply with the Controlled 16 Substances Act?</p> <p>17 A. So those would have been created prior 18 to my -- or that role, my role being created and 19 going into that role. And those would have fallen 20 under Greg, Randy at the time until his departure, 21 and the leadership team at HBC.</p> <p>22 Q. So Greg, Randy and Anthony.</p> <p>23 At the time that you became the senior 24 manager of compliance, to the best of your 25 recollection, the primary responsibility for the</p>	<p style="text-align: right;">Page 68</p> <p>1 subject matter expert if there were questions that 2 came up.</p> <p>3 Q. At some point in time, in your role as 4 senior manager of compliance at Giant Eagle, did 5 you assume responsibility for the policies and 6 procedures at HBC to comply with the Controlled 7 Substances Act?</p> <p>8 A. So you're asking if HBC -- can you 9 rephrase? Let me let you rephrase that question 10 one more time.</p> <p>11 Q. At some point in time, did you learn 12 that you, as the senior manager of compliance at 13 Giant Eagle, were responsible for the policies and 14 procedures at HBC to comply with the Controlled 15 Substances Act?</p> <p>16 MR. KOBRIN: Object to form.</p> <p>17 THE WITNESS: I was responsible for 18 creating the policies and -- well, reviewing and 19 creating policies/procedures specifically that was 20 required for the VAWD certification, and then to 21 do a review and creation of policies for GERX.</p> <p>22 BY MR. HUDSON:</p> <p>23 Q. Have you heard the acronym SOMS, 24 suspicious order monitoring system?</p> <p>25 A. I have.</p>
<p style="text-align: right;">Page 67</p> <p>1 policies and procedures at HBC to comply with the 2 Controlled Substances Act continued to be the 3 responsibility of Greg, Randy and Anthony?</p> <p>4 A. Anthony was operations.</p> <p>5 Q. So just Greg and Randy?</p> <p>6 A. I would say those two initially.</p> <p>7 Q. And were Greg and Randy responsible for 8 the policies and procedures at HBC to comply with 9 the Controlled Substances Act throughout the time 10 that you were the senior manager of compliance?</p> <p>11 A. No. Randy was -- Randy was -- Randy 12 left the company at that point.</p> <p>13 Q. Was it Greg or Randy though? In other 14 words, was it always --</p> <p>15 A. Initially, yeah. Greg always. And then 16 Randy's replacement, it would have fallen under 17 him.</p> <p>18 Q. And who was that?</p> <p>19 A. Brett Merrell. I think of the shoes.</p> <p>20 Q. At any time that you were the senior 21 manager of compliance, did you have responsibility 22 for HBC policies and procedures to comply with the 23 Controlled Substances Act?</p> <p>24 A. It evolved later on. Not initially in 25 my role. From that perspective, I was used as a</p>	<p style="text-align: right;">Page 69</p> <p>1 Q. Are you familiar with SOMS, that 2 acronym?</p> <p>3 A. I am.</p> <p>4 MR. KOBRIN: Object to form.</p> <p>5 BY MR. HUDSON:</p> <p>6 Q. At some point, as the senior manager of 7 compliance at Giant Eagle, were you responsible 8 for the policies and procedures at HBC to comply 9 with the SOMS requirements of the Controlled 10 Substances Act?</p> <p>11 MR. KOBRIN: Object to form.</p> <p>12 THE WITNESS: Again, as I had said 13 before, I helped or our group reviewed the 14 policies and procedures required for -- that were 15 in place previously and were needed for our -- 16 were triggered by the VAWD certification, to 17 review the suspicious order monitoring piece as a 18 function of the overall controls that were in 19 place at store level, corporate level, 20 distribution center level.</p> <p>21 BY MR. HUDSON:</p> <p>22 Q. At any time that you were the senior 23 manager of compliance at Giant Eagle, were you 24 ever told that you or your group were responsible 25 for the HBC policies and procedures to comply with</p>

<p style="text-align: right;">Page 70</p> <p>1 the SOMS requirements of the Controlled Substances 2 Act? 3 MR. KOBRIN: Object to form. Asked and 4 answered. 5 BY MR. HUDSON: 6 Q. You can answer. 7 A. Was I told by anybody, Greg, Anthony or 8 otherwise, that my group was responsible for 9 those? 10 In the rewriting or review of those for VAWD 11 certification is when we became very involved 12 specific to the individual there that we had 13 procedures at retail level in place already. 14 Q. What about at the distributor level? 15 MR. KOBRIN: Object to form. 16 THE WITNESS: As I said, when we review 17 for the VAWD certification, to review all their 18 policies and procedures that were in place, to 19 reformat them for VAWD certification. 20 BY MR. HUDSON: 21 Q. When did this VAWD certification review 22 occur? 23 A. Good grief. VAWD -- well, the VAWD 24 certification itself, the actual granting of the 25 certification occurred after I was gone from the</p>	<p style="text-align: right;">Page 72</p> <p>1 requirements of the Controlled Substances Act? 2 MR. KOBRIN: Object to form. 3 THE WITNESS: So specific procedures for 4 HBC as to what was in their policies and 5 procedures, we were the -- my group were the SMEs 6 to answer any kind of questions that came up or as 7 regulations changed. 8 BY MR. HUDSON: 9 Q. What does SME mean? I apologize. 10 A. Subject matter expert. 11 Q. Subject matter expert. 12 A. Sorry. So while not doing specific 13 policies and procedures, certainly guiding, 14 providing guidance for the facility whenever there 15 was a necessary legislative change. So the 16 rescheduling of hydrocodone-containing products -- 17 again, I misspoke just referring only to 18 hydrocodone earlier -- but hydrocodone-containing 19 products, so the acetaminophen combos essentially 20 as an example, and then the subsequent scheduling 21 of Tramadol. So that necessitated the change. 22 (HBC-Millward Exhibit 2 was marked.) 23 BY MR. HUDSON: 24 Q. Let me hand you what we've marked as 25 Exhibit 2. And Exhibit 2 --</p>
<p style="text-align: right;">Page 71</p> <p>1 company. 2 But initially it would have been, if I had to 3 ballpark it, '14, '15-ish, and that's a guess. 4 Q. Let me just ask you the broad question. 5 What is VAWD certification? 6 A. VAWD, and I apologize for not 7 remembering the entire acronym, but essentially, 8 it's a distributor certification that some states 9 require in order to distribute into those states 10 and a set of standards for not just controlled 11 substances, but temperature controls, physical 12 plant, HR. 13 Q. Why was there a VAWD review, VAWD 14 certification review occurring in 2014 or 2015? 15 A. So we could -- as we understood at the 16 time, in order to distribute to the store that was 17 opening in Indiana. Indiana required VAWD 18 certification in order to distribute. That was 19 our understanding. As well as the -- which would 20 have been one store -- as well as the two stores 21 that were in Maryland. 22 Q. So prior to you and your group's 23 involvement in the VAWD certification review in 24 2014 or 2015, did you have any involvement with 25 the HBC policies and procedures to meet the SOMS</p>	<p style="text-align: right;">Page 73</p> <p>1 MR. HUDSON: Our internal sticker is 2 P-GEN-10. 3 BY MR. HUDSON: 4 Q. And this is a CFR that we pulled from 5 the Department of Justice DEA website on diversion 6 control division. 7 Do you see there at the top Part 1301, 8 Registration of Manufacturers, Distributors and 9 Dispensers of Controlled Substances? 10 MR. KOBRIN: I just want to object on 11 the record real quick. This is only a small 12 section of what's a larger set of regulations, and 13 they are all interconnected and cross-reference 14 each other. 15 You can answer. 16 THE WITNESS: That's exactly what it 17 says at the top. 18 BY MR. HUDSON: 19 Q. So my focus is really on 1301.74(b). Do 20 you see that there? 21 A. Yes. 22 Q. "The registrant shall design and operate 23 a system to disclose to the registrant suspicious 24 orders of controlled substances. The registrant 25 shall inform the field division office of the</p>

<p style="text-align: right;">Page 74</p> <p>1 Administration in his area of suspicious orders 2 when discovered by the registrant. Suspicious 3 orders include orders of unusual size, orders 4 deviating substantially from a normal pattern, and 5 orders of unusual frequency."</p> <p>6 Do you see that?</p> <p>7 A. I do see that.</p> <p>8 Q. And what I've done is I just created a 9 little bit of a demonstrative here. I just want 10 to know if you agree with this. That in terms of 11 complying with -- this is -- this provision that 12 we're talking about is the suspicious order 13 monitoring system or the SOMS obligation of the 14 Controlled Substances Act; correct?</p> <p>15 MR. KOBRIN: Object to form. 16 Misrepresents both the regulation and the record.</p> <p>17 BY MR. HUDSON:</p> <p>18 Q. You can answer.</p> <p>19 A. I'm sorry. Can you say that again?</p> <p>20 Q. Sure. Do you agree that this section 21 that we've been looking at of 1301.74(b) is the 22 suspicious order monitoring system requirement of 23 the Controlled Substances Act?</p> <p>24 MR. KOBRIN: Object to form. Same 25 objection.</p>	<p style="text-align: right;">Page 76</p> <p>1 MR. HUDSON: Correct. 2 MR. KOBRIN: That's all you're going to 3 be referring to when you refer to SOMS?</p> <p>4 MR. HUDSON: Correct. 5 MR. KOBRIN: I just want you to make 6 sure that you're clear with the witness on that 7 because I don't know that --</p> <p>8 MR. HUDSON: That's why I asked the 9 question.</p> <p>10 MR. KOBRIN: I don't want him to get 11 confused.</p> <p>12 MR. HUDSON: I appreciate it. Thank 13 you.</p> <p>14 BY MR. HUDSON:</p> <p>15 Q. Mr. Millward, from here forth, if we 16 refer to the SOMS requirement, will you understand 17 that I'm referring to the requirements of 18 Section 1301.74(b)?</p> <p>19 A. I understand what you're saying, as the 20 regulation is read.</p> <p>21 Q. Do you agree that, in fact, there are 22 federal regulations that do require distributors 23 to have a suspicious order monitoring system in 24 place?</p> <p>25 MR. KOBRIN: Object to form.</p>
<p style="text-align: right;">Page 75</p> <p>1 THE WITNESS: 1301.74(b) is part of a 2 whole list of security and control requirements. 3 So it's one of the many listed ones in the other 4 parts of the regulation that distributors are 5 required to follow, dispensers.</p> <p>6 BY MR. HUDSON:</p> <p>7 Q. And can we agree though that this 8 section (b) is the suspicious order monitoring 9 system requirement?</p> <p>10 MR. KOBRIN: Object to form. 11 Misrepresents the regulation.</p> <p>12 THE WITNESS: Section (b) is the system 13 to disclose suspicious orders of controlled 14 substances, as it states.</p> <p>15 BY MR. HUDSON:</p> <p>16 Q. And can we refer to this as SOMS today?</p> <p>17 MR. KOBRIN: Object to form.</p> <p>18 BY MR. HUDSON:</p> <p>19 Q. In other words, if we talk about the 20 requirements of this particular regulation, will 21 you understand that to mean the SOMS requirements?</p> <p>22 MR. KOBRIN: So any time after this 23 point, when you refer to SOMS, you're establishing 24 you are only referring to Section 1301.74(b)? 25</p>	<p style="text-align: right;">Page 77</p> <p>1 THE WITNESS: A system to disclose 2 suspicious orders, is that what you're referring 3 there?</p> <p>4 BY MR. HUDSON:</p> <p>5 Q. Yes.</p> <p>6 A. Then in that case, that is correct.</p> <p>7 Q. If you look here on what we've got up 8 here on the screen, do you agree that HBC Service 9 Company had an obligation to design a system to 10 disclose to HBC suspicious orders of controlled 11 substances?</p> <p>12 MR. KOBRIN: So the record establishes 13 that we're looking at a demonstrative that's not 14 been entered as an exhibit that summarizes the 15 subsection?</p> <p>16 MR. HUDSON: Correct.</p> <p>17 THE WITNESS: That's what you want him 18 to look at, not the reg. itself?</p> <p>19 MR. HUDSON: Correct.</p> <p>20 THE WITNESS: The display does show, 21 correct, that -- it says that HBC shall 22 essentially -- not essentially -- but they'll 23 operate a system to disclose suspicious orders of 24 controlled substance and copies and pastes the 25 list from the regs.</p>

<p style="text-align: right;">Page 78</p> <p>1 BY MR. HUDSON:</p> <p>2 Q. So you agree that what we've got</p> <p>3 displayed on the screen is consistent with the</p> <p>4 wording and the obligation that's set forth in the</p> <p>5 regulation itself?</p> <p>6 MR. KOBRIN: Object to form.</p> <p>7 THE WITNESS: Worded slightly different,</p> <p>8 but correct.</p> <p>9 BY MR. HUDSON:</p> <p>10 Q. In substance, what's on the screen</p> <p>11 accurately displays what the regulation requires;</p> <p>12 is that fair?</p> <p>13 MR. KOBRIN: Object to form.</p> <p>14 THE WITNESS: Well, not the regulation</p> <p>15 in the entirety. I mean, there's the other</p> <p>16 security pieces that go along with having that</p> <p>17 total scope of control. But for the subsection</p> <p>18 (b), it lists the examples that are listed on the</p> <p>19 regulation for unusual size, pattern and</p> <p>20 frequency.</p> <p>21 BY MR. HUDSON:</p> <p>22 Q. So can we agree that between 2009 and</p> <p>23 2016, HBC had an obligation to design a system to</p> <p>24 disclose to HBC suspicious orders of controlled</p> <p>25 substances?</p>	<p style="text-align: right;">Page 80</p> <p>1 Administration in its area of suspicious orders</p> <p>2 when discovered by HBC?</p> <p>3 MR. KOBRIN: Object to form.</p> <p>4 THE WITNESS: As also stated in the</p> <p>5 regulation.</p> <p>6 BY MR. HUDSON:</p> <p>7 Q. So the answer is "yes"?</p> <p>8 A. Correct.</p> <p>9 Q. Now, at HBC between 2009 and 2016, who</p> <p>10 had responsibility for designing a system to</p> <p>11 disclose to HBC suspicious orders of controlled</p> <p>12 substances?</p> <p>13 MR. KOBRIN: Object to form.</p> <p>14 THE WITNESS: Restate the timeframe.</p> <p>15 BY MR. HUDSON:</p> <p>16 Q. 2009 to 2016.</p> <p>17 A. The specific person tasked with</p> <p>18 designing the suspicious order piece? That's a</p> <p>19 good question who the individual was.</p> <p>20 MR. KOBRIN: He supposes that it was --</p> <p>21 you're saying designing --</p> <p>22 MR. HUDSON: Just let him answer the</p> <p>23 question, please.</p> <p>24 MR. KOBRIN: I would just like to</p> <p>25 clarify.</p>
<p style="text-align: right;">Page 79</p> <p>1 A. I believe --</p> <p>2 MR. KOBRIN: Object to form.</p> <p>3 THE WITNESS: -- the Controlled</p> <p>4 Substances Act prescribes that for distributors.</p> <p>5 BY MR. HUDSON:</p> <p>6 Q. And can we agree that HBC under the</p> <p>7 Controlled Substances Act had an obligation to</p> <p>8 operate a system to disclose to HBC suspicious</p> <p>9 orders of controlled substances?</p> <p>10 MR. KOBRIN: Object to form.</p> <p>11 THE WITNESS: As a part of the other</p> <p>12 security requirements set forth in the other</p> <p>13 subsections of the regulation, that is correct.</p> <p>14 BY MR. HUDSON:</p> <p>15 Q. And can we agree that under the</p> <p>16 Controlled Substances Act, suspicious orders</p> <p>17 include orders of unusual size, orders deviating</p> <p>18 substantially from a normal pattern and orders of</p> <p>19 unusual frequency?</p> <p>20 MR. KOBRIN: Object to form.</p> <p>21 THE WITNESS: That correctly stated the</p> <p>22 reg.</p> <p>23 BY MR. HUDSON:</p> <p>24 Q. Can we agree that HBC had an obligation</p> <p>25 to inform the field division office of the</p>	<p style="text-align: right;">Page 81</p> <p>1 MR. HUDSON: No. I don't need a</p> <p>2 clarification. I've been patient. You can say,</p> <p>3 "Objection. Form." There's a pending question.</p> <p>4 I'd like him to answer it.</p> <p>5 MR. KOBRIN: I just want to object that</p> <p>6 it's not clear whether you're saying designing</p> <p>7 between 2009 and 2016 or earlier.</p> <p>8 MR. HUDSON: You can say, "Objection.</p> <p>9 Form." That's fine.</p> <p>10 MR. KOBRIN: I'd like to get it in the</p> <p>11 record. That's all. I don't think I'm</p> <p>12 interfering with your deposition.</p> <p>13 MR. HUDSON: You are interfering with my</p> <p>14 deposition because you're trying to clarify my</p> <p>15 question. You can say, "Objection. Form." Then</p> <p>16 I'll clarify my question if I think the form is</p> <p>17 wrong.</p> <p>18 MR. KOBRIN: He's struggling to give you</p> <p>19 an answer. He's clearly confused by your</p> <p>20 question.</p> <p>21 MR. HUDSON: Do you want to coach</p> <p>22 anymore?</p> <p>23 MR. KOBRIN: I don't think I'm coaching</p> <p>24 at all.</p> <p>25 MR. HUDSON: Do you want to answer for</p>

<p style="text-align: right;">Page 82</p> <p>1 him? "Objection. Form" please.</p> <p>2 THE WITNESS: Go ahead and restate your</p> <p>3 question.</p> <p>4 MR. HUDSON: Can you read it back?</p> <p>5 (The record was read back.)</p> <p>6 MR. KOBRIN: Same objection.</p> <p>7 THE WITNESS: 2009, I can't speak as to</p> <p>8 who would have designed the process. I wasn't</p> <p>9 involved. I was in the field and not at the</p> <p>10 corporate office at that time.</p> <p>11 BY MR. HUDSON:</p> <p>12 Q. How about in 2010?</p> <p>13 A. It was already in place or what was</p> <p>14 there was already in place.</p> <p>15 Q. How about 2011?</p> <p>16 A. Same answer.</p> <p>17 Q. How about 2012?</p> <p>18 A. The same system would have been in</p> <p>19 place. We were starting to look at -- well,</p> <p>20 between 2011 and '12, my group did an overview of</p> <p>21 controlled substance handling from cradle to grave</p> <p>22 store level.</p> <p>23 Q. How about 2013?</p> <p>24 A. 2013, we started looking at drug</p> <p>25 movement.</p>	<p style="text-align: right;">Page 84</p> <p>1 helped until his departure.</p> <p>2 BY MR. HUDSON:</p> <p>3 Q. Anyone else?</p> <p>4 A. I don't remember when Joe Mishanski</p> <p>5 left, but that was again, as previously stated,</p> <p>6 the pharmacy IT group.</p> <p>7 Q. Anyone else you can recall that was</p> <p>8 involved in the drug movement project or</p> <p>9 initiative?</p> <p>10 MR. KOBRIN: Object to form.</p> <p>11 THE WITNESS: My group, but we've stated</p> <p>12 that.</p> <p>13 BY MR. HUDSON:</p> <p>14 Q. And that would be you?</p> <p>15 A. George.</p> <p>16 Q. And George Chunderlik. Anyone else?</p> <p>17 A. And we may have had Adrienne. I don't</p> <p>18 want to take a guess. But definitely George,</p> <p>19 definitely the IT. And our admins would have been</p> <p>20 involved.</p> <p>21 Q. In 2013 in connection with the efforts</p> <p>22 to review drug movement, were there any changes to</p> <p>23 HBC's policies and procedures?</p> <p>24 A. I wasn't involved in their policy and</p> <p>25 procedure, as stated before. So I don't know if</p>
<p style="text-align: right;">Page 83</p> <p>1 Q. What's that mean?</p> <p>2 A. So that would be -- looking at drug</p> <p>3 movement would be how -- what products and types</p> <p>4 of products are coming in and being dispensed via</p> <p>5 prescriptions to the end user patient.</p> <p>6 Q. Was that at the pharmacy store level</p> <p>7 that you did the review of drug movement?</p> <p>8 A. Looking at ordering patterns and</p> <p>9 dispensing patterns, so store level.</p> <p>10 Q. And who did that?</p> <p>11 A. That was part of my group with IT's --</p> <p>12 my group did not have the IT expertise. So we</p> <p>13 relied on the pharmacy IT group to give us an</p> <p>14 assist with creation and generation of reports for</p> <p>15 us to utilize.</p> <p>16 Q. Was that Kayla?</p> <p>17 A. She would have been one of them, yeah,</p> <p>18 absolutely. Kayla Voelker is who you're referring</p> <p>19 to; is that correct?</p> <p>20 Q. Yeah.</p> <p>21 A. Okay.</p> <p>22 Q. Other than Kayla Voelker, anyone else</p> <p>23 involved?</p> <p>24 MR. KOBRIN: Object to form.</p> <p>25 THE WITNESS: So Shawn Boyton would have</p>	<p style="text-align: right;">Page 85</p> <p>1 they changed anything from HR policies to</p> <p>2 controlled substance policies, outside of the</p> <p>3 changes we previously discussed.</p> <p>4 Q. How about 2014?</p> <p>5 A. Okay. Go ahead.</p> <p>6 Q. Who was responsible for HBC's policies</p> <p>7 and procedures and requirements under the</p> <p>8 Controlled Substances Act as it related to the</p> <p>9 distribution of prescription drugs?</p> <p>10 MR. KOBRIN: Object to form.</p> <p>11 THE WITNESS: The supervisor group or</p> <p>12 the org chart for HBC from the person who ran it</p> <p>13 day to day to up through Greg's -- through the</p> <p>14 merchandising group, still had the responsibility</p> <p>15 for the operational procedures for that with my</p> <p>16 input where asked and where necessary.</p> <p>17 BY MR. HUDSON:</p> <p>18 Q. So if we go back to the original</p> <p>19 question I was focused on though, between 2009 and</p> <p>20 2016, who was responsible for designing the system</p> <p>21 to disclose to HBC suspicious orders of controlled</p> <p>22 substances?</p> <p>23 MR. KOBRIN: Object to form. Asked and</p> <p>24 answered.</p> <p>25 THE WITNESS: As far as a "You've been</p>

<p style="text-align: right;">Page 86</p> <p>1 designated to be that person," I believe that fell 2 under that group. And then I gave significant 3 input as far as helping educate as to what 4 opportunities we have.</p> <p>5 We have controls at all levels and how we can 6 evolve and continue to improve as information 7 comes in from our partners, whether the DEA or 8 boards of pharmacy.</p> <p>9 BY MR. HUDSON:</p> <p>10 Q. Is it fair to say then between 2009 and 11 2016, it was Randy or Greg who was always the one 12 who was responsible for the design of the system 13 to disclose to HBC suspicious orders of controlled 14 substances?</p> <p>15 MR. KOBRIN: Object to form.</p> <p>16 THE WITNESS: So for -- well, Randy 17 again, he left. And the time when he departed I 18 don't recall specifically. I apologize.</p> <p>19 The design of the policies and procedures, 20 again, fell or would be under that org chart. I 21 certainly helped and my group helped review and 22 shape and gave significant input as far as changes 23 in -- based off of our meetings that we've had 24 with the DEA, through their pharmacy diversion 25 awareness conferences and the distributor</p>	<p style="text-align: right;">Page 88</p> <p>1 THE WITNESS: I would say that every 2 time where there is a requirement by law to retain 3 documentation, that HBC has an obligation to be 4 compliant with that law.</p> <p>5 BY MR. HUDSON:</p> <p>6 Q. Right. And in terms of specifically 7 taking actions to comply with the SOMS 8 requirements of the Controlled Substances Act, do 9 you agree that if HBC is taking actions to comply 10 with that law, those actions should be documented 11 in writing?</p> <p>12 A. As policies and procedures, if that's 13 what you're referring to, policies and procedures 14 are created as needed, as required, retained per 15 company requirements and the law to be compliant.</p> <p>16 Q. My question is more general than that. 17 As the senior manager of compliance at Giant 18 Eagle, one of your roles was to put in place 19 policies and procedures that comply with the law; 20 right?</p> <p>21 A. Correct.</p> <p>22 Q. Would you agree with me that if HBC 23 needed to take actions to comply with the law, 24 that those actions should be documented in 25 writing?</p>
<p style="text-align: right;">Page 87</p> <p>1 conferences that I attended, one of the HBC people 2 attended, helped shape our understanding to 3 continue to evolve our controls for our self 4 distribution system.</p> <p>5 MR. HUDSON: I move to strike the answer 6 as nonresponsive.</p> <p>7 BY MR. HUDSON:</p> <p>8 Q. If we get back to HBC's design of a 9 system to disclose to HBC suspicious orders of 10 controlled substances, do you agree that if HBC is 11 taking actions to comply with the law, that those 12 actions should be documented in writing?</p> <p>13 MR. KOBRIN: Object to form.</p> <p>14 THE WITNESS: We're required by law.</p> <p>15 BY MR. HUDSON:</p> <p>16 Q. Is the answer "yes"?</p> <p>17 A. They would be required to document as 18 required by law or company policy.</p> <p>19 Q. So it's your understanding of the 20 Controlled Substances Act that in terms of putting 21 a policy in place to monitor suspicious orders, if 22 HBC is taking actions to comply with that law, 23 those actions should be documented in writing?</p> <p>24 MR. KOBRIN: Object to form. Misstates 25 the record.</p>	<p style="text-align: right;">Page 89</p> <p>1 MR. KOBRIN: Object to form.</p> <p>2 THE WITNESS: I don't necessarily agree 3 with that, no. If it's not required to be 4 documented, is there a -- they should document -- 5 actually, if they have an obligation to document, 6 we're required to document.</p> <p>7 BY MR. HUDSON:</p> <p>8 Q. Do you think it's a good practice from a 9 compliance perspective to put in writing actions 10 that are being taken at HBC to show compliance 11 with the law?</p> <p>12 MR. KOBRIN: Object to form. Asked and 13 answered.</p> <p>14 THE WITNESS: Again, those are the 15 policies and procedures.</p> <p>16 BY MR. HUDSON:</p> <p>17 Q. In your mind, if there isn't an 18 obligation under the law to specifically document 19 something, from a compliance perspective, it would 20 be your view that it's not necessary to put it in 21 writing and document it?</p> <p>22 MR. KOBRIN: Object to form. Misstates 23 testimony.</p> <p>24 THE WITNESS: The policies and 25 procedures were created to help, whether it's HBC,</p>

<p style="text-align: right;">Page 90</p> <p>1 the corporation or the pharmacy operational group 2 be compliant with the law, rules, regulations, 3 federal, state and local. 4 BY MR. HUDSON: 5 Q. I guess what I'm asking -- 6 A. That's why we put them in writing. 7 Q. And I guess what I'm asking is: Do you 8 agree that it is important to create policies and 9 procedures to document in writing actions that are 10 being taken by HBC that are required by law? 11 A. I believe it's important to have 12 policies and procedures that dictate the 13 requirements for compliance. 14 Q. And if particular laws require actions 15 by HBC to comply with the law, do you think it's 16 prudent to put policies and procedures in place to 17 make sure that the actions that are being taken by 18 HBC are documented in writing -- 19 MR. KOBRIN: Object to form. 20 BY MR. HUDSON: 21 Q. -- so that the company can show what it 22 did to comply with the law? 23 MR. KOBRIN: Object to form. 24 THE WITNESS: Correct. Where they're 25 required to report, for example, that's</p>	<p style="text-align: right;">Page 92</p> <p>1 other words, one of your responsibilities from 2 compliance was to actually be the group that 3 creates policies and procedures; right? Do you 4 agree with that? 5 A. I agree. 6 Q. And then put policies and procedures in 7 place so that everyone in the company is complying 8 with the law; right? 9 MR. KOBRIN: Object to form. 10 THE WITNESS: Correct. The policies and 11 procedures are to facilitate, educate and keep the 12 company compliant. 13 BY MR. HUDSON: 14 Q. So my question is: If in order to 15 comply with the law HBC needs to take certain 16 actions -- 17 A. Correct. 18 Q. -- is it going to do things -- 19 A. Correct. 20 Q. -- do you agree with me that HBC should 21 put policies and procedures in place to make sure 22 that the actions that are taken are actually 23 documented in writing so that HBC can show it 24 complied with the law? 25 MR. KOBRIN: Object to form. Asked and</p>
<p style="text-align: right;">Page 91</p> <p>1 documentation. So they would be required to 2 retain that; correct. 3 BY MR. HUDSON: 4 Q. My question though is more basic. Just 5 in general -- 6 A. I apologize. I'm getting a grasp. 7 Q. That's okay. If HBC has a requirement 8 under the law to take certain actions to comply 9 with the law, do you agree that HBC should have 10 policies and procedures in place to make sure that 11 the actions that are being taken are documented in 12 writing? 13 MR. KOBRIN: Object to form. Asked and 14 answered. He's answered this very specific 15 question about two minutes ago. 16 THE WITNESS: And they're documented 17 through the policies and procedures that 18 require -- that guide HBC or pharmacy in general 19 to be compliant, documented in the policies and 20 the procedures. 21 BY MR. HUDSON: 22 Q. Right. And you keep saying that they're 23 documented in policies and procedures. 24 My question goes towards what policies and 25 procedures should be created by compliance? In</p>	<p style="text-align: right;">Page 93</p> <p>1 answered. 2 BY MR. HUDSON: 3 Q. Do you agree with that? 4 MR. KOBRIN: Object to form. 5 THE WITNESS: Only if required by law to 6 retain that documentation, to create and retain 7 that documentation to -- what you're asking is to 8 demonstrate compliance. Am I interpreting your 9 question correctly? 10 BY MR. HUDSON: 11 Q. What I'm getting at is if actions are 12 necessary to comply with the law, from a 13 compliance perspective, why wouldn't you document 14 in writing what the company is doing? 15 MR. KOBRIN: Object to form. 16 THE WITNESS: If you're not required to 17 document, why would you document. 18 BY MR. HUDSON: 19 Q. Would that be from your point of view, 20 the Giant Eagle view or the HBC view of 21 compliance? 22 MR. KOBRIN: Object to form. Misstates 23 testimony. 24 THE WITNESS: Requiring -- if the law 25 prescribes that documentation must be retained,</p>

<p style="text-align: right;">Page 94</p> <p>1 created and retained to show compliance, then the 2 organization has to be -- in order to be compliant 3 with that law has to create and retain that 4 information.</p> <p>5 BY MR. HUDSON:</p> <p>6 Q. And my point is if part of the 7 requirements of the law are to take actions, do 8 things -- so let's say, for example, under the 9 suspicious order monitoring system, if you have an 10 order that gets flagged because you believe that 11 it might be at risk for diversion, then would you 12 agree with me that there's an obligation to go and 13 investigate or due diligence look at that order?</p> <p>14 MR. KOBRIN: Object to form.</p> <p>15 THE WITNESS: That's a different 16 question than you asked before. Previous question 17 was just on creating and retaining documents. Now 18 your question now was an obligation to do due 19 diligence on an investigation? So change -- am I 20 interpreting your question correctly?</p> <p>21 BY MR. HUDSON:</p> <p>22 Q. My questions before related to taking 23 actions. All of my questions that I asked were if 24 the law requires you to take certain actions, 25 should those be documented in writing.</p>	<p style="text-align: right;">Page 96</p> <p>1 MR. KOBRIN: Object to form. Compound. 2 THE WITNESS: How do you know an 3 order -- let me rephrase. 4 There should be a system in place to identify 5 orders that are suspicious. You have to find out 6 why they are, what are the criteria. As part of 7 the bigger picture of the controls of this reg. 8 and from the diversion conferences and 9 interactions with the DEA, the biggest safety 10 control is knowing your customer. 11 In this case, Giant Eagle is wholly the only 12 customer to itself and its distribution. 13 MR. HUDSON: I'll move to strike the 14 answer as nonresponsive and come back to my 15 question. 16 BY MR. HUDSON: 17 Q. Do you agree under the Controlled 18 Substances Act, if a distributor flags a shipment 19 as being suspicious for diversion, that that 20 distributor has an obligation to go and 21 investigate that shipment? 22 MR. KOBRIN: Object to form. 23 THE WITNESS: Whether an individual 24 order or a bad prescription, pharmacists or the 25 organization has to understand why it's</p>
<p style="text-align: right;">Page 95</p> <p>1 Now I'm asking more specifically. So let's 2 talk about the Controlled Substances Act and, in 3 particular, suspicious orders.</p> <p>4 Can we agree that a distributor, one of its 5 obligations is if an order is flagged as being 6 suspicious, then the distributor is to go and 7 investigate or do due diligence on that order to 8 try to figure out whether it's at risk for 9 diversion?</p> <p>10 MR. KOBRIN: Object to form.</p> <p>11 THE WITNESS: So the reg. reads -- let 12 me read that again -- the registrant shall inform 13 the field division office in his area of 14 suspicious orders when discovered by the 15 registrant. Then it goes on to say unusual size, 16 frequency and pattern.</p> <p>17 So does that answer your question?</p> <p>18 BY MR. HUDSON:</p> <p>19 Q. Not really. Let me try again.</p> <p>20 A. Sorry.</p> <p>21 Q. Do you agree that under the Controlled 22 Substances Act, a distributor who flags a shipment 23 as being suspicious or at risk for diversion has 24 an obligation to go and conduct an investigation 25 or do due diligence?</p>	<p style="text-align: right;">Page 97</p> <p>1 suspicious. 2 BY MR. HUDSON: 3 Q. If a distributor flags an order as being 4 suspicious, do you agree that that distributor has 5 an obligation to go and conduct due diligence to 6 try to figure out whether it's a legitimate order 7 or an order at risk of diversion? 8 MR. KOBRIN: Object to form. 9 BY MR. HUDSON: 10 Q. "Yes" or "no." Do you agree with that? 11 A. Yes. 12 Q. So investigation is a requirement. 13 Investigation of shipments that are flagged as 14 being suspicious or at risk of not being 15 legitimate, we can agree an obligation is to go 16 and investigate that shipment; is that fair? 17 MR. KOBRIN: Object to form. 18 THE WITNESS: You need to make -- the 19 investigation you need to -- whether you say 20 obligation or not, the organization needs to 21 determine is it a suspicious order and the reason 22 why. 23 BY MR. HUDSON: 24 Q. Right. And so it needs to go and 25 investigate or conduct due diligence to figure out</p>

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<p>1 whether that order is legitimate or whether it's 2 not; is that fair? 3 A. Correct. 4 MR. KOBRIN: Object to form. 5 BY MR. HUDSON: 6 Q. So can we agree that under the 7 Controlled Substances Act, HBC as a distributor 8 has an obligation to investigate shipments that 9 are flagged as being suspicious for diversion? 10 MR. KOBRIN: Object to form. 11 Make sure you give me a chance to object. 12 THE WITNESS: I apologize. 13 I don't believe that the obligation to 14 investigate or those words are used in the 15 Controlled Substances Act under that -- under 16 1301.74(b) specifically. Well, let's see. 17 BY MR. HUDSON: 18 Q. Mr. Millward, putting aside the 19 regulation itself, just in general, the Controlled 20 Substances Act, one of the things you did when you 21 were the senior manager of compliance at Giant 22 Eagle is you wrote, actually wrote policies for 23 HBC and Giant Eagle on how to comply with the 24 suspicious order monitoring requirements of the 25 Controlled Substances Act; right?</p>	<p>1 medications for people who have a need; correct. 2 BY MR. HUDSON: 3 Q. And so as part of that process, 4 distributors have certain obligations to take 5 actions to make sure that the drugs that they're 6 shipping are not being diverted for illegal 7 purposes. Can we agree with that? 8 MR. KOBRIN: Object to form. 9 THE WITNESS: Correct. 10 BY MR. HUDSON: 11 Q. And so when a distributor like HBC 12 identifies an order as being suspicious or has the 13 potential of diversion, can we agree that HBC has 14 an obligation to go and investigate that order to 15 determine whether it's legitimate or not? 16 MR. KOBRIN: Object to form. 17 THE WITNESS: When there is a flag, it 18 gets investigated. 19 BY MR. HUDSON: 20 Q. And so can we agree that any order that 21 gets flagged by HBC, then the law says go and 22 investigate and figure out whether it's legitimate 23 or not? 24 MR. KOBRIN: Object to form. Misstates 25 the regulations.</p>
<p>1 A. As a portion or a part of the overall 2 controlled substance handling. 3 Q. Right. So you have familiarity with 4 this regulation and this framework of regulations 5 that are in place; right? 6 A. Correct. 7 Q. And you understand that it's a closed 8 system where anyone handling controlled substances 9 needs to be registered? 10 A. From manufacturers, distributors, 11 pharmacies. 12 Q. Right. And you understand that the 13 point of that regulatory framework is to make sure 14 that prescription drugs and controlled substances 15 are not diverted for illegal purposes; right? 16 MR. KOBRIN: Object to form. 17 THE WITNESS: Correct. The framework is 18 in place to prevent diversion; right. 19 BY MR. HUDSON: 20 Q. In other words, the framework is in 21 place to create a system where legitimate 22 prescriptions are being filled that are medically 23 necessary; right? 24 MR. KOBRIN: Object to form. 25 THE WITNESS: Correct, access to</p>	<p>1 THE WITNESS: I don't believe the law 2 says that, but that's what occurs. 3 BY MR. HUDSON: 4 Q. In the regulatory framework though, 5 that's the expectation? 6 MR. KOBRIN: Object to form. 7 BY MR. HUDSON: 8 Q. When a distributor flags an order as 9 being suspicious of diversion, then the 10 distributor has an obligation to go and figure out 11 whether it's a legitimate order or not? 12 MR. KOBRIN: Object to form. Is that a 13 question? 14 BY MR. HUDSON: 15 Q. Do you agree with that? 16 A. The DEA allows the distributors to 17 determine or to set forth their procedures to meet 18 the requirements. 19 Q. And in terms of HBC's procedures, would 20 you agree that going and investigating orders that 21 got flagged was something that HBC was required to 22 do under its policies and procedures? 23 MR. KOBRIN: Object to form. 24 THE WITNESS: Under policies and 25 procedures, investigating the flagged orders,</p>

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<p>1 absolutely.</p> <p>2 BY MR. HUDSON:</p> <p>3 Q. Each and every one, each and every</p> <p>4 flagged order or flagged shipment should be</p> <p>5 investigated under HBC's policies and procedures;</p> <p>6 correct?</p> <p>7 A. Each should have to have a level of</p> <p>8 review, absolutely.</p> <p>9 Q. And if HBC does not review or</p> <p>10 investigate orders that are flagged, would you</p> <p>11 agree that that would be a violation of HBC's</p> <p>12 policies and procedures?</p> <p>13 A. If HBC was not -- if policies were not</p> <p>14 being followed, then that would be outside of the</p> <p>15 policy, I guess.</p> <p>16 Q. Right. And you'd agree that one of the</p> <p>17 HBC policies or procedures was that if an order</p> <p>18 gets flagged, it needs to be reviewed or</p> <p>19 investigated?</p> <p>20 A. I don't have the policy offhand, but I</p> <p>21 believe that that's reasonable. I don't remember</p> <p>22 the policy off the top of my head. Actually, I</p> <p>23 take that back. If an order is flagged, it would</p> <p>24 be -- it would be reviewed, investigated to some</p> <p>25 degree.</p>	<p>1 were flagged, you would agree that that would be a</p> <p>2 violation of HBC's policies and procedures;</p> <p>3 correct?</p> <p>4 MR. KOBRIN: Object to form. Same</p> <p>5 objection.</p> <p>6 THE WITNESS: I believe I answered that</p> <p>7 already.</p> <p>8 BY MR. HUDSON:</p> <p>9 Q. It's just a "yes" or "no" question. In</p> <p>10 other words, if HBC has a policy that orders that</p> <p>11 are flagged should be reviewed or investigated,</p> <p>12 you'd agree with me that if flagged orders are not</p> <p>13 reviewed or investigated, that would be a</p> <p>14 violation of HBC's policies or procedures;</p> <p>15 correct?</p> <p>16 MR. KOBRIN: Object to form. He doesn't</p> <p>17 have to answer "yes" or "no." I don't want you</p> <p>18 instructing him he has to answer "yes" or "no."</p> <p>19 BY MR. HUDSON:</p> <p>20 Q. You can answer.</p> <p>21 A. I believe I have. If policies were --</p> <p>22 not following a policy would be a violation of</p> <p>23 that individual policy, regardless of what -- if</p> <p>24 it's controlled substance, if it's human</p> <p>25 resources, if it's time and attendance, it's all</p>
<p style="text-align: center;">Page 103</p> <p>1 Q. And if an order was flagged for some</p> <p>2 reason, but it wasn't investigated or reviewed,</p> <p>3 you would agree that would be a violation of HBC's</p> <p>4 policies and procedures; correct?</p> <p>5 MR. KOBRIN: Object to form.</p> <p>6 THE WITNESS: If HBC or personnel didn't</p> <p>7 follow the policies that were set forth, then they</p> <p>8 would be in violation of the policy.</p> <p>9 BY MR. HUDSON:</p> <p>10 Q. And because there was a specific policy</p> <p>11 that each order flagged should be reviewed or</p> <p>12 investigated, you would agree that if a particular</p> <p>13 order or shipment was not reviewed or</p> <p>14 investigated, that would be a violation of HBC's</p> <p>15 policies and procedures; correct?</p> <p>16 MR. KOBRIN: Object to form. Asked and</p> <p>17 answered.</p> <p>18 THE WITNESS: If they didn't follow --</p> <p>19 if personnel or at any level didn't follow the</p> <p>20 policies, then I agree it would be a violation of</p> <p>21 that policy.</p> <p>22 BY MR. HUDSON:</p> <p>23 Q. And in the particular case of reviewing</p> <p>24 or investigating orders that are flagged, if</p> <p>25 personnel didn't review or investigate orders that</p>	<p style="text-align: center;">Page 105</p> <p>1 the same.</p> <p>2 Q. Correct. And you've also agreed with me</p> <p>3 that there was a policy and procedure in place to</p> <p>4 review or investigate orders that are flagged as</p> <p>5 suspicious; correct?</p> <p>6 A. We had a procedure to do so.</p> <p>7 Q. My specific question is: If HBC flagged</p> <p>8 an order as being suspicious, then you would agree</p> <p>9 with me that if it was not investigated or</p> <p>10 reviewed, that would be a violation of HBC's</p> <p>11 policies or procedures?</p> <p>12 MR. KOBRIN: Object to form.</p> <p>13 THE WITNESS: Any policy that's not</p> <p>14 followed, if it spells forth an action to take and</p> <p>15 that action isn't taken, then it would be a</p> <p>16 violation of the policy.</p> <p>17 BY MR. HUDSON:</p> <p>18 Q. Can you answer my specific question</p> <p>19 about reviewing or investigating flagged orders?</p> <p>20 A. Whether the policy is flagged orders or</p> <p>21 it's anything else, it all follows the exact same</p> <p>22 process.</p> <p>23 Q. Can you answer the specific question?</p> <p>24 In other words, can you tell me if an order was</p> <p>25 flagged as being suspicious and HBC did not review</p>

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<p>1 or investigate that order, would that or would 2 that not be a violation of HBC policies and 3 procedures?</p> <p>4 MR. KOBRIN: Object to form. This has 5 been asked and answered. This whole line of 6 questioning is getting argumentative.</p> <p>7 THE WITNESS: Again, if the procedure or 8 the procedure requires the investigation of a 9 flagged order, just as any other policy, and the 10 policy is not followed, then your answer -- then 11 there would be a violation of policy regardless of 12 the policy.</p> <p>13 MR. KOBRIN: Do you want to take a 14 break? It's been about an hour.</p> <p>15 THE WITNESS: Yeah, please.</p> <p>16 MR. HUDSON: Let's go off the record.</p> <p>17 THE VIDEOGRAPHER: 11:32. We're off the 18 video record.</p> <p>19 (Recess from 11:32 a.m. to 11:55 a.m.)</p> <p>20 THE VIDEOGRAPHER: 11:55. We are on the 21 video record.</p> <p>22 BY MR. HUDSON:</p> <p>23 Q. Sir, I'm going to hand you what we've 24 marked as Exhibit 3.</p> <p>25 MR. HUDSON: This has got an internal</p>	<p>1 Q. Do you know whether anyone at Giant 2 Eagle or HBC received the first letter from 2012? 3 A. Honestly, I can't speak to anybody 4 else's history or recollection.</p> <p>5 Q. Given that the letter indicates it was 6 sent to every entity in the United States who is 7 registered with the DEA to manufacture or 8 distribute controlled substances, do you believe 9 that someone at Giant Eagle or HBC received this 10 letter from the DEA in 2012?</p> <p>11 MR. KOBRIN: Object to form. I wouldn't 12 speculate as to your beliefs.</p> <p>13 THE WITNESS: State the question again.</p> <p>14 I'm sorry.</p> <p>15 BY MR. HUDSON:</p> <p>16 Q. Given that the DEA in this letter states 17 in the beginning that it's being sent to every 18 entity in the United States who is registered with 19 the DEA to manufacture or distribute controlled 20 substances, do you believe that this letter was 21 sent to HBC?</p> <p>22 MR. KOBRIN: Same objection.</p> <p>23 THE WITNESS: As a registrant with the 24 DEA and the DEA, as they state, sent it to all 25 registrants, then while I can't say that it</p>
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<p>1 number P-GEN-3.</p> <p>2 BY MR. HUDSON:</p> <p>3 Q. My question is: Do you recognize this 4 set of documents?</p> <p>5 (HBC-Millward Exhibit 3 was marked.)</p> <p>6 THE WITNESS: Give me a second to 7 review, please.</p> <p>8 (Witness reviewed the exhibit.)</p> <p>9 THE WITNESS: Appears to be a Dear 10 Registrant letter; correct?</p> <p>11 BY MR. HUDSON:</p> <p>12 Q. Correct. Are you familiar with Dear 13 Registrant letters?</p> <p>14 A. I knew the DEA sends them out. And we 15 have how many years worth here?</p> <p>16 Q. I believe these are a set of Dear 17 Registrant letters from 2006, 2007 and 2012 18 relating to distributing controlled substances or 19 manufacturing controlled substances.</p> <p>20 A. Okay.</p> <p>21 Q. My question is just: Do you recognize 22 any of these letters?</p> <p>23 A. Not from 2006 or 2007 as I was not in 24 the role at that time. And I can't remember if I 25 saw specifically this one during my time in 2012.</p>	<p>1 physically made it -- I can't say that it 2 physically made it to HBC as I wasn't there to 3 receive the letter personally. I can't speak to 4 that.</p> <p>5 But if every registrant in the country who, 6 as it says, manufactures or distributes controlled 7 substances, it reasons to believe that every 8 registrant received one.</p> <p>9 BY MR. HUDSON:</p> <p>10 Q. And in 2012, HBC was a registrant to 11 distribute controlled substances; correct?</p> <p>12 A. Correct.</p> <p>13 Q. And in your role as senior manager of 14 compliance, do you have any knowledge about who at 15 HBC would have been receiving this letter from the 16 DEA?</p> <p>17 A. The personnel at HBC.</p> <p>18 Q. Who in particular do you think that 19 would be at HBC, if you know?</p> <p>20 A. In 2012?</p> <p>21 Q. Um-hum.</p> <p>22 A. 2012, I don't remember. Actually, I 23 don't remember who the -- over the general manager 24 or whatever that role -- who was in that role 25 specifically, and I don't want to guess as to</p>

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<p>1 their name.</p> <p>2 Q. Well -- go ahead.</p> <p>3 A. No, no. By all means, go ahead.</p> <p>4 Q. Is this the type of communication from</p> <p>5 the DEA that you in your role as senior manager of</p> <p>6 compliance would have received a copy of?</p> <p>7 A. I don't -- I don't -- I don't recall</p> <p>8 receiving a copy of it. Could possibly.</p> <p>9 Q. In terms of the practices at Giant Eagle</p> <p>10 or HBC, would it have been your expectation that a</p> <p>11 letter like this from the DEA would make its way</p> <p>12 to you as the senior manager of compliance?</p> <p>13 A. I would hope so.</p> <p>14 Q. And were there policies or practices in</p> <p>15 place that would ensure that a letter like this</p> <p>16 from the DEA would make its way to you or others</p> <p>17 in the compliance group?</p> <p>18 A. I'm not aware of a specific policy</p> <p>19 regarding that.</p> <p>20 Q. For this type of Dear Registrant letter</p> <p>21 from the DEA, within Giant Eagle or HBC who would</p> <p>22 you expect to receive a copy of a letter like</p> <p>23 this?</p> <p>24 A. Well, it was sent to the registrant. So</p> <p>25 it would have been sent to HBC, assuming as a</p>	<p>1 BY MR. HUDSON:</p> <p>2 Q. Did you then in your role, your</p> <p>3 compliance role receive any materials, attend any</p> <p>4 seminars in connection -- that were being held by</p> <p>5 the DEA to familiarize yourselves with the</p> <p>6 requirements of the Controlled Substances Act?</p> <p>7 MR. KOBRIN: Object to form.</p> <p>8 THE WITNESS: As stated in a previous</p> <p>9 answer, I did attend the pharmacy diversion</p> <p>10 awareness conferences as well as a distributor</p> <p>11 version of the same. That was with Matt Rogos.</p> <p>12 That actually might have been who was in there in</p> <p>13 2012 for HBC.</p> <p>14 BY MR. HUDSON:</p> <p>15 Q. You attended a pharmacy diversion</p> <p>16 awareness seminar?</p> <p>17 A. A PDAC, yes, as they refer to it.</p> <p>18 Q. What is the acronym?</p> <p>19 A. PDAC.</p> <p>20 Q. PDAC?</p> <p>21 A. Pharmacy diversion awareness conference.</p> <p>22 Q. And was that in Washington, DC?</p> <p>23 A. The pharmacy diversion awareness</p> <p>24 conferences were -- well, the last one was in</p> <p>25 Pittsburgh. It was downtown. I don't remember</p>
<p style="text-align: center;">Page 111</p> <p>1 registrant and the DEA is following through, that</p> <p>2 it would have been received by the personnel that</p> <p>3 were there.</p> <p>4 The supervisor, whose name I don't recall in</p> <p>5 specifically 2012, and I apologize, would have</p> <p>6 physically received the letter. My hopes would</p> <p>7 have been that it would have made it into the</p> <p>8 corporate office.</p> <p>9 Q. So you mean it would be physically sent</p> <p>10 to the HBC warehouse --</p> <p>11 MR. KOBRIN: Object to form.</p> <p>12 BY MR. HUDSON:</p> <p>13 Q. -- would be your expectation as the</p> <p>14 registrant?</p> <p>15 A. Well, according to what it says from the</p> <p>16 DEA on the first paragraph, which you read, the</p> <p>17 letter would have been sent to the registrant, and</p> <p>18 that registrant would have been HBC.</p> <p>19 Q. Would it be Walter Durr? Was he the</p> <p>20 supervisor of the HBC facility?</p> <p>21 MR. KOBRIN: Object to form.</p> <p>22 THE WITNESS: No. Walter Durr -- that's</p> <p>23 his last name -- 2012, I don't think it was him.</p> <p>24 If I think of the other guy back then...</p> <p>25</p>	<p style="text-align: center;">Page 113</p> <p>1 the hotel. It's right by the hockey there.</p> <p>2 The one before, the first one I went to, I</p> <p>3 don't remember where that one was offhand. I</p> <p>4 don't remember. But the diversion or the</p> <p>5 distributor one was in DC.</p> <p>6 Q. When was that?</p> <p>7 A. I don't remember the date offhand.</p> <p>8 Q. Any ballpark?</p> <p>9 A. I'd have to look at the -- at my</p> <p>10 communication that had it.</p> <p>11 Q. So in terms of seminars that you</p> <p>12 attended, just to make sure we've got a complete</p> <p>13 list, are there two?</p> <p>14 A. Three total.</p> <p>15 Q. Three total?</p> <p>16 A. Two PDACs and one distributor.</p> <p>17 Q. Two PDACs, one distributor?</p> <p>18 A. That's correct.</p> <p>19 Q. And do you know any of the dates of any</p> <p>20 of those three seminars?</p> <p>21 A. The last one in Pittsburgh, I think I --</p> <p>22 I'd have to look at the calendar, but it was</p> <p>23 December. Year? I don't remember the year.</p> <p>24 December 10 stands out. I think it was</p> <p>25 December 10 and 11, whatever was the Wednesday --</p>

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<p>1 I think there was a Wednesday, Thursday, if I 2 recall. 3 That one just stands out because I met my 4 father here. That's why. He came in for it, too. 5 That's why it's unique. 6 Q. But no recollection of the year? 7 A. Not off -- I'd have to look again at -- 8 I have access to my old calendar. 9 Q. As a result of any of the seminars that 10 you attended, did you propose new policies or 11 procedures at Giant Eagle or HBC? 12 A. So from both or we'll say the two PDACs 13 and the distributor, the information that was 14 there, I shared the slides and presentation with 15 the operational group. And taking the information 16 and education as provided by the representatives 17 of the DEA, looked to continue to involve or 18 evolve our existing control procedures, pharmacy, 19 distribution, corporate, to ensure compliance; 20 kind of that whole spectrum of control that we put 21 in at all levels. 22 Q. As a result of attending any of these 23 seminars, the three seminars that you've 24 referenced, did you or anyone at Giant Eagle or 25 HBC implement new policies or procedures?</p>	<p>1 the end user patient. 2 Q. As a result of attending these seminars, 3 did you learn information that you then 4 incorporated in any policies or procedures related 5 to monitoring of orders of controlled substances 6 to prevent diversion? 7 MR. KOBRIN: Object to form. 8 THE WITNESS: To continue to improve our 9 overall controls and with regards to all the 10 regulations and order monitoring. 11 BY MR. HUDSON: 12 Q. What did you do to improve them? 13 A. Specifically? 14 Q. Yeah. Specifically what did you do to 15 improve them? 16 A. We reviewed the suspicious order 17 monitoring, having the ability -- again, 18 reiterating the responsibility of the distributor 19 to be able to identify suspicious orders of 20 controlled substances and see what other 21 opportunities we had to evolve our existing 22 controls to be even better. 23 Q. Well, was HBC monitoring shipments to 24 identify suspicious orders of controlled 25 substances?</p>
<p style="text-align: center;">Page 115</p> <p>1 A. When we learned new or information from 2 the DEA, interpretation as to the information 3 presented, that all goes into shaping and evolving 4 our practices. 5 Q. As a result of attending any of the 6 three seminars that you've referenced, are there 7 any specific policies or procedures that you or 8 anyone at Giant Eagle or HBC enacted that you 9 recall as you sit here today? 10 MR. KOBRIN: Object to form. 11 THE WITNESS: There were policies and 12 procedural adjustments, sure. 13 BY MR. HUDSON: 14 Q. And what were those? 15 A. Specifically? 16 Q. Yes. 17 A. We continued to evolve our control with 18 the monitoring and distribution and dispensing of 19 controlled substances. 20 Q. Anything more specific you can say? 21 A. As far as taking information that was 22 presented to change how we handle the receipts, 23 the monitoring of movement and the continued 24 vigilance for preventing diversion through the 25 supply chain of -- the internal supply chain to</p>	<p style="text-align: center;">Page 117</p> <p>1 MR. KOBRIN: Object to form. 2 THE WITNESS: I believe that we were 3 compliant. 4 BY MR. HUDSON: 5 Q. My question though is: During the 6 entire time that you were in the role of senior 7 manager of compliance at HBC, was HBC monitoring 8 shipments of controlled substances to identify 9 suspicious orders? 10 MR. KOBRIN: Object to form. Misstates 11 the record. 12 THE WITNESS: So I wasn't the manager of 13 compliance for HBC. Can I correct that? It was 14 for Giant Eagle, for the pharmacy, quality and 15 compliance. 16 And were orders -- we looked at -- since we 17 had -- our system was a complete system of having 18 the benefit of only having our pharmacies to 19 dispense. We knew every -- monitor the 20 prescription movement, being able to look at 21 dispensing patterns, prescribing patterns to 22 prevent suspicious orders from being created; so 23 watched it from the ground up as part of that 24 system of overall control. 25</p>

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<p>1 BY MR. HUDSON:</p> <p>2 Q. During the entire time that you were in 3 your role as senior manager of compliance at Giant 4 Eagle, was HBC systematically monitoring shipments 5 of controlled substances to identify suspicious 6 orders?</p> <p>7 A. There was a system in place to identify, 8 yeah. I would say yes. We monitored our -- or 9 had procedures in place overall to watch 10 controlled substance movement to identify where 11 suspicious orders may be created and ideally to 12 prevent them from ever occurring.</p> <p>13 Q. Did you have policies or procedures to 14 document what you were doing at HBC to monitor 15 those shipments?</p> <p>16 MR. KOBRIN: Object to form.</p> <p>17 THE WITNESS: As we said earlier on the 18 policies and the procedures, those were reviewed 19 later or those -- I'm sorry -- those were -- step 20 back. Repeat the question more one time. I'll 21 take a second.</p> <p>22 BY MR. HUDSON:</p> <p>23 Q. Did you have policies or procedures to 24 document what you were doing at HBC to monitor 25 shipments of controlled substances?</p>	<p>1 A. By law, sure.</p> <p>2 Q. From a compliance perspective, what was 3 required by law?</p> <p>4 MR. KOBRIN: You've shown him a section 5 of the regs. I just want to object to that 6 question. Are you asking him from his memory to 7 tell you what was required under the Controlled 8 Substances Act and all the other regulations?</p> <p>9 BY MR. HUDSON:</p> <p>10 Q. I'm saying as the senior manager of 11 compliance at Giant Eagle, what was required by 12 law?</p> <p>13 A. It was required to notify the DEA if an 14 order was deemed -- if an order was deemed 15 suspicious and stopped from shipment, notify the 16 DEA.</p> <p>17 Q. And how many times did that happen while 18 you were at Giant Eagle?</p> <p>19 A. I believe twice we stopped shipments.</p> <p>20 Q. And both times did you notify the DEA?</p> <p>21 A. Yes.</p> <p>22 Q. In your mind, were there any other 23 requirements?</p> <p>24 MR. KOBRIN: Object to form.</p> <p>25 THE WITNESS: Any other requirements?</p>
<p style="text-align: center;">Page 119</p> <p>1 MR. KOBRIN: Object to form. It's a 2 little bit confusing. I don't want to interfere 3 with your question.</p> <p>4 BY MR. HUDSON:</p> <p>5 Q. Let me try again.</p> <p>6 Did you have policies or procedures to 7 document in writing what actions HBC was taking to 8 monitor shipments of controlled substances?</p> <p>9 MR. KOBRIN: Object to form.</p> <p>10 THE WITNESS: I believe we talked about 11 this before the break, but the policies to create 12 documents, retain documents would be as required 13 and spelled out by -- any documentation that was 14 required by law would have been created and 15 retained.</p> <p>16 BY MR. HUDSON:</p> <p>17 Q. To your knowledge, did you have policies 18 or procedures to document in writing what actions 19 HBC was taking to monitor shipments of controlled 20 substances?</p> <p>21 MR. KOBRIN: Object to form. Asked and 22 answered.</p> <p>23 THE WITNESS: Where required.</p> <p>24 BY MR. HUDSON:</p> <p>25 Q. Did you say, "Where required"?</p>	<p style="text-align: center;">Page 121</p> <p>1 BY MR. HUDSON:</p> <p>2 Q. To monitor --</p> <p>3 A. Or document?</p> <p>4 Q. -- shipments of controlled substances to 5 determine whether or not they were suspicious.</p> <p>6 MR. KOBRIN: Object to form.</p> <p>7 THE WITNESS: Any other requirements 8 beyond what is in the reg. I guess is my question.</p> <p>9 BY MR. HUDSON:</p> <p>10 Q. You can put the reg. aside. I'm just 11 asking you as a former senior manager of 12 compliance at Giant Eagle, how did this system 13 work?</p> <p>14 MR. KOBRIN: Objection.</p> <p>15 BY MR. HUDSON:</p> <p>16 Q. What review in your mind -- what was HBC 17 required to do?</p> <p>18 MR. KOBRIN: Object to form.</p> <p>19 THE WITNESS: They're required to follow 20 the reg. and the list of regs. beyond which cover 21 physical controls as well beyond the others that 22 are there and whenever -- and have a system in 23 place, though the DEA does not define the system 24 or what that system is, to be able to identify 25 suspicious orders and report accordingly.</p>

<p style="text-align: right;">Page 122</p> <p>1 BY MR. HUDSON:</p> <p>2 Q. And when you assumed your role at HBC, 3 what did that system look like? How did it work?</p> <p>4 MR. KOBRIN: Object to form.</p> <p>5 THE WITNESS: It was a whole company 6 system that involved procedures at the pharmacy, 7 at the distribution center, at corporate to be 8 able to know the -- again, we had the benefit of 9 Giant Eagle pharmacies were only or HBC only 10 distributed to Giant Eagle pharmacies both 11 controls and noncontrols, along with merchandise 12 as well out of that distribution center, but had 13 access to every prescription that was dispensed.</p> <p>14 So part of that control is knowing your 15 customer, and we knew our customers, our 16 pharmacies, better than anybody else possibly 17 could. And so had complete visibility and access 18 into the movement.</p> <p>19 If it starts with the prescription and the 20 order and pharmacies by law and practice only 21 dispense orders pursuant to a prescription, they 22 can only order to cover those products, and that's 23 one of the multiple levels of controls that are 24 there.</p> <p>25 So if know your customer as being the</p>	<p style="text-align: right;">Page 124</p> <p>1 distributor level.</p> <p>2 Q. So you've got the pharmacies involved.</p> <p>3 The warehouse, the HBC warehouse is involved. And 4 corporate is involved in the system?</p> <p>5 A. I believe that's fair to say.</p> <p>6 Q. Where do I go at HBC or Giant Eagle to 7 figure out who had what role and how the system 8 worked in 2009 through 2014?</p> <p>9 MR. KOBRIN: Object to form.</p> <p>10 THE WITNESS: It involves the entire -- 11 it involved the group. So from the group that 12 oversaw HBC to the compliance group to the PDLs 13 and making sure stores were complying or doing 14 their role, as the role I was in previously, to 15 the pharmacy IT group in providing the data as 16 stated previously.</p> <p>17 BY MR. HUDSON:</p> <p>18 Q. Is there a manual or a book or something 19 I can go to to see how this system was designed to 20 operate?</p> <p>21 MR. KOBRIN: Object to form.</p> <p>22 THE WITNESS: I don't know if there was 23 a book form, but it would be contained in the 24 policies and the procedures at the different 25 levels.</p>
<p style="text-align: right;">Page 123</p> <p>1 umbrella for which diversion is prevented and 2 knowing where those prescriptions are going, you 3 have a deeper ability to prevent even a suspicious 4 order from being created. The fact that we found 5 two, I think, is a testament that the system 6 worked, our system was in place and working.</p> <p>7 BY MR. HUDSON:</p> <p>8 Q. The fact that you found two suspicious 9 orders in the six years that HBC was a distributor 10 of opioids?</p> <p>11 A. It probably started after '13, and it 12 was a two schedule -- or the same drug, but they 13 were Schedule IIIs.</p> <p>14 Q. What do you mean it probably started 15 after 2013? You mean your monitoring?</p> <p>16 A. No. I mean we involved the -- we always 17 would look at -- there was always a process in 18 place to review movement of product since it's 19 ourself distributing to self, to monitor it along 20 the entire way to meet that requirement as an 21 overall system of control.</p> <p>22 Q. So your testimony is that HBC and Giant 23 Eagle collectively had a whole company system; is 24 that right?</p> <p>25 A. Corporate level, pharmacy level,</p>	<p style="text-align: right;">Page 125</p> <p>1 BY MR. HUDSON:</p> <p>2 Q. So it's your testimony that we will be 3 able to find policies and procedures at the 4 pharmacy level, the warehouse level and the 5 corporate level that would specifically relate to 6 monitoring shipments from HBC to Giant Eagle 7 pharmacies to determine whether or not they're 8 suspicious?</p> <p>9 MR. KOBRIN: Object to form.</p> <p>10 THE WITNESS: Well, I know we talked 11 about the policies earlier in the conversation. 12 And as far as where the policies for the 13 distribution center, when I got involved with the 14 distribution center would have been through the 15 VAWD process and then subsequently GERX. But 16 sharing info with the group from the conferences.</p> <p>17 BY MR. HUDSON:</p> <p>18 Q. I agree. I mean, HBC -- I'll represent 19 to you that the company has answered questions 20 that we've asked them about written policies. And 21 you definitely were involved. There were written 22 policies in place in 2015 and later; right? Do 23 you agree with that?</p> <p>24 MR. KOBRIN: Object to form.</p> <p>25 THE WITNESS: I agree that's when I had</p>

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<p>1 some input on that.</p> <p>2 BY MR. HUDSON:</p> <p>3 Q. So in 2015 and later, we can point to</p> <p>4 written policies that existed at HBC and Giant</p> <p>5 Eagle to look at the specific processes put in</p> <p>6 place to monitor suspicious orders of controlled</p> <p>7 substances; right?</p> <p>8 MR. KOBRIN: Object to form.</p> <p>9 THE WITNESS: As part of the review and</p> <p>10 creation of policy or -- I should say revising of</p> <p>11 policies and formatting for VAWD certification.</p> <p>12 BY MR. HUDSON:</p> <p>13 Q. Right. One of the things you did was</p> <p>14 put in place written policies; right?</p> <p>15 A. Correct. Well, guide and create them</p> <p>16 with the group, not just me exclusively, our</p> <p>17 policy group.</p> <p>18 Q. Prior to 2015 though, there were no</p> <p>19 specific written policies that existed at HBC or</p> <p>20 Giant Eagle directly related to monitoring</p> <p>21 shipments of controlled substances from HBC to</p> <p>22 Giant Eagle; correct?</p> <p>23 MR. KOBRIN: Object to form. Misstates</p> <p>24 the record.</p> <p>25 THE WITNESS: I don't believe -- I don't</p>	<p>1 Exhibits 4 and 5.</p> <p>2 (Witness reviewed the exhibit.)</p> <p>3 BY MR. HUDSON:</p> <p>4 Q. In particular, I'll represent to you</p> <p>5 that Exhibit 4 is a discovery request -- I'm</p> <p>6 sorry -- a discovery response that HBC provided to</p> <p>7 plaintiffs' set of combined discovery requests.</p> <p>8 So these are basically questions that HBC</p> <p>9 answered.</p> <p>10 And in particular, I'm focused on the second</p> <p>11 question, which is on page 8, which says, "Please</p> <p>12 produce each of your suspicious order monitoring</p> <p>13 system policies and procedures since January 1,</p> <p>14 2006 and identify the Bates-stamp range for each.</p> <p>15 Please identify the effective dates each was in</p> <p>16 force and effect."</p> <p>17 Do you see that?</p> <p>18 A. Hold on. Where were you on page 8</p> <p>19 again? I'm sorry.</p> <p>20 Q. Under number two, the question. If you</p> <p>21 look up there on the board, he's got it set up for</p> <p>22 you.</p> <p>23 A. Okay. Sorry.</p> <p>24 Q. So you've got that question in mind? If</p> <p>25 we move to page 9, the next page, and zero in on</p>
<p style="text-align: center;">Page 127</p> <p>1 agree with that characterization.</p> <p>2 BY MR. HUDSON:</p> <p>3 Q. You're aware of written policies that</p> <p>4 existed? Are you aware of written policies that</p> <p>5 existed prior to 2015?</p> <p>6 A. Do I recall them now? Do I recall the</p> <p>7 specific policies previously? Not off the top of</p> <p>8 my head.</p> <p>9 Q. Do you have any reason to believe as you</p> <p>10 sit here today that there were written policies</p> <p>11 that existed prior to April 9, 2015 at HBC to</p> <p>12 monitor shipments from HBC to Giant Eagle?</p> <p>13 A. Do I believe -- restate it one more</p> <p>14 time.</p> <p>15 Q. Do you have any reason to believe that</p> <p>16 written policies existed at Giant Eagle or HBC</p> <p>17 prior to April 9, 2015 that were in place to</p> <p>18 identify, investigate or report suspicious orders</p> <p>19 from HBC to Giant Eagle pharmacies?</p> <p>20 MR. KOBRIN: Object to form.</p> <p>21 THE WITNESS: Again, I don't recall</p> <p>22 specific policies.</p> <p>23 (HBC-Millward Exhibits 4 - 5 were marked.)</p> <p>24 BY MR. HUDSON:</p> <p>25 Q. I'll hand you then what I've marked as</p>	<p style="text-align: center;">Page 129</p> <p>1 the bottom half of that, there's a list of Bates</p> <p>2 numbers there. And above it, it says, "HBC also</p> <p>3 responds it's produced written SOMS policies in</p> <p>4 response to Request No. 25 in Plaintiffs' First</p> <p>5 Set of Requests for Production of Documents to HBC</p> <p>6 Service Company that are located at..." And then</p> <p>7 you see underneath there there's a list of</p> <p>8 policies and procedures.</p> <p>9 And so if you go back to the question, you</p> <p>10 see the question was, state policies and</p> <p>11 procedures since January 1, 2006 and please</p> <p>12 identify the effective dates each was in force and</p> <p>13 effect.</p> <p>14 Then we've got a list of documents by Bates</p> <p>15 range in response to that. Do you see that?</p> <p>16 A. I do see where you're reading.</p> <p>17 Q. What I've done is I've gone and taken</p> <p>18 each one of those Bates range responses and put</p> <p>19 those documents together and put it into one</p> <p>20 document. And that's Exhibit 5.</p> <p>21 So you've got here the questions and answer</p> <p>22 about policies and procedures and the effective</p> <p>23 dates, and then we've got the documents</p> <p>24 themselves.</p> <p>25 Do you see there under these, the first one</p>

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1 HBC_MDL00078638 through 8639, and then next to it, 2 it says, HBC policy effective 4/9/2015 to 3 2/26/2016? 4 A. I see that. 5 Q. And then if we go to Exhibit 5 and we 6 zoom in on the top of that, do you see there 7 revision date 4/9/2015? 8 A. Yes, I do. 9 Q. Now, are you aware as you sit here today 10 of any written policies, written SOMS policies 11 that were in force and effect prior to April 9, 12 2015? 13 A. According to the document, April 1, 14 2014 -- I'm sorry -- is the effective date as 15 written on here. 16 Q. So this document that's been provided to 17 us as a written SOMS policy we've got here, the 18 effective date is from 4/9/2015 to 2/26/2016. You 19 agree with that; right? 20 A. State that timeframe again, please. 21 Q. 4/9/2015 to 2/26/2016. 22 A. This would be the revision date; 23 correct. 24 Q. If you look at the next policy, which is 25 Bates ending 4386, you can see there that it	1 A. I'm sorry. I apologize. -- August 1, 2 2014 document, that there was a document from that 3 date. 4 Q. And I'll represent to you that I have 5 looked high and low in the files produced in this 6 case, and I can't find it. And I'll also 7 represent to you that in the responses to our 8 questions, HBC hasn't identified a Bates range for 9 that document. 10 As you sit here today, do you believe that 11 there is a more -- an older version of this policy 12 that existed and was created on August 1, 2014? 13 A. Do I believe that there was a version 14 from August 1, 2014? 15 Q. Yes. 16 A. I would say that we had a policy. But I 17 don't have access to be able to even say. 18 Q. If a policy existed and was created on 19 August 1, 2014, would it have been Giant Eagle or 20 HBC's practice to maintain that policy, keep the 21 actual physical copy of the written policy? 22 MR. KOBRIN: Object to form. 23 THE WITNESS: Or electronic version. 24 BY MR. HUDSON: 25 Q. So if a policy was created on August 1,
1 has -- we've got a new revision date of 2/26/2016. 2 He's got it pulled up there for you. 3 And that's consistent with the answer that's 4 provided by the company about the effective date 5 of HBC written policies; right? 6 A. I don't -- well -- I don't know how the 7 company testified. 8 Q. Well, it's not testimony. I mean 9 testified through these written responses. It's 10 right there on the page. You see that; right? 11 A. Yes. 12 Q. Now, you've pointed out that this first 13 policy that's been identified here says that it 14 had a created date of actually 8/1/2014 just right 15 back on the front page, right there. 16 A. Yes. I see that. 17 Q. Now, there isn't any document listed 18 here that actually establishes that there was a 19 policy that was in place and effective during that 20 time. 21 Are you aware of a prior version of this 22 document that was created on August 1, 2014? 23 A. Since this is a revision of the 24 August 14th document -- 25 Q. I think you meant August 1, 2014.	1 2014, do you expect that HBC or Giant Eagle would 2 still have an electronic or paper copy of it 3 today? 4 A. I can't answer that as I'm not there 5 anymore to know. 6 Q. I'm just saying in your role in 7 compliance, knowing what you know about the 8 practices at the company, would you expect that if 9 a policy was created on August 1, 2014, it would 10 still exist in electronic or paper form? 11 MR. KOBRIN: Object to form. Don't 12 speculate about policies you don't know about. 13 THE WITNESS: I don't know that. 14 MR. HUDSON: Don't coach the witness. 15 THE WITNESS: I don't know if it was 16 retained. I don't know that anymore. 17 BY MR. HUDSON: 18 Q. My question was a little bit different. 19 A. Since leaving the company. 20 Q. My question is: If this indicates that 21 there was a policy created date of August 1, 2014 22 and a policy was created at that time, based upon 23 what you know about the practices of HBC or Giant 24 Eagle, do you believe that that policy would still 25 exist in electronic or written form?

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<p>1 MR. KOBRIN: Object to form.</p> <p>2 THE WITNESS: If it was required to be 3 retained from the company's own document retention 4 policy. But I can't -- I can't speak to where 5 that would be or if it was retained.</p> <p>6 BY MR. HUDSON:</p> <p>7 Q. Do you believe that you worked on 8 creating a policy in or around I guess it would be 9 July or early August of 2014?</p> <p>10 MR. KOBRIN: Object to form.</p> <p>11 THE WITNESS: I don't remember the 12 dates, and I'm not going to speculate.</p> <p>13 BY MR. HUDSON:</p> <p>14 Q. As you sit here today, do you have any 15 recollection of anyone at Giant Eagle or HBC 16 taking any efforts in July of 2014 to create 17 written suspicious order policies?</p> <p>18 A. Again, I can't say who or when would 19 have created it or when it was created.</p> <p>20 Obviously, prior to August.</p> <p>21 Q. At any point in time, were you aware of 22 you or anyone else at Giant Eagle becoming 23 concerned that you didn't have written policies in 24 place?</p> <p>25 MR. KOBRIN: Object to form.</p>	<p>1 states that former Giant Eagle employees Joseph 2 Millward and Anthony Mollica attended a DEA 3 session in Washington, DC in 2013."</p> <p>4 A. I was there in 2013 and Anthony -- or 5 I'm sorry -- Matt Rogos.</p> <p>6 Q. Was Anthony Mollica there as well, do 7 you think, to the best of your recollection?</p> <p>8 A. No. Anthony wasn't there.</p> <p>9 MR. KOBRIN: We had to amend that to 10 reflect Matt. I apologize for that.</p> <p>11 THE WITNESS: It should -- it should say 12 Matt.</p> <p>13 BY MR. HUDSON:</p> <p>14 Q. Do you have any more specific 15 recollection of when that session occurred in 16 2013, in other words, beginning, end, fall, 17 spring?</p> <p>18 A. It wasn't the summer because it was 19 cooler, but I don't remember spring, fall. It 20 wasn't winter either.</p> <p>21 Q. And was this -- the seminar that you 22 attended in Washington, DC, was that the seminar 23 specific to diversion at the distributor level?</p> <p>24 A. It was specific -- the DEA's target 25 audience was the distributors across the country.</p>
<p style="text-align: center;">Page 135</p> <p>1 THE WITNESS: So following our -- I 2 don't remember the year that we went to the 3 diversion conference, as we talked earlier, that 4 we saw an opportunity to evolve our overall 5 practices with regard to controlled substances at 6 all levels.</p> <p>7 BY MR. HUDSON:</p> <p>8 Q. And as part of that evolution, did you 9 become concerned that you did not have written 10 policies in place?</p> <p>11 A. Did I become concerned that we did not 12 have written policies in place following the 13 visit?</p> <p>14 I think it was an opportunity I would say -- 15 actually, I will say an opportunity to continue to 16 improve operational procedures, be it policy or 17 procedure.</p> <p>18 Q. I will mark this an exhibit if we need 19 to, but I will represent to you that in response 20 to another one of the discovery questions that we 21 asked -- we asked, "Please identify the date and 22 location of each DEA or Ohio Board of Pharmacy 23 meeting, training, information or education 24 system."</p> <p>25 Then in response, HBC said, "HBC further</p>	<p style="text-align: center;">Page 137</p> <p>1 Q. And it's your testimony that as a result 2 of attending that conference in 2013, that led to 3 the creation of some written policies; is that 4 fair?</p> <p>5 MR. KOBRIN: Object to form. Misstates 6 the record.</p> <p>7 THE WITNESS: The education received 8 through the DEA's conference, distributor 9 conference, was shared with all levels within the 10 pharmacy group, and, of course, Matt being there 11 from HBC, and led to reevaluate and continue to 12 evolve our practices.</p> <p>13 BY MR. HUDSON:</p> <p>14 Q. And then as a result of that, one of the 15 things that occurred is the creation of this 16 inventory control suspicious order policy, right, 17 we've marked as Exhibit 5, the first policy?</p> <p>18 MR. KOBRIN: Object to form.</p> <p>19 THE WITNESS: The information gained at 20 the diversion or at the DEA's distributor 21 conference I would say certainly helped shape our 22 evolving processes.</p> <p>23 BY MR. HUDSON:</p> <p>24 Q. Can we agree that the created date even 25 of this first policy is August 1, 2014?</p>

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<p>1 A. I agree that that's what it says.</p> <p>2 Q. And as you sit here today, you're not</p> <p>3 were aware of any policy, written policy that was</p> <p>4 created prior to August 1, 2014; correct?</p> <p>5 MR. KOBRIN: Object to form.</p> <p>6 THE WITNESS: That would be housed at</p> <p>7 HBC at the time.</p> <p>8 BY MR. HUDSON:</p> <p>9 Q. Housed at HBC or Giant Eagle? I ask</p> <p>10 because this particular policy has Giant Eagle at</p> <p>11 the top.</p> <p>12 A. If the policy was at HBC, it resided at</p> <p>13 HBC for that.</p> <p>14 Q. As you sit here today -- I'm sorry.</p> <p>15 You'll see each one of these written policies</p> <p>16 that's been identified as a SOMS policy has Giant</p> <p>17 Eagle at the top.</p> <p>18 A. Correct.</p> <p>19 Q. And you testified previously that HBC</p> <p>20 did not have a compliance division or department;</p> <p>21 correct? They relied on Giant Eagle.</p> <p>22 A. Correct.</p> <p>23 Q. Are you aware of any written policies</p> <p>24 that existed at HBC and were created by HBC?</p> <p>25 MR. KOBRIN: Object to form.</p>	<p>1 BY MR. HUDSON:</p> <p>2 Q. Do you believe there's an opioid crisis</p> <p>3 in the United States?</p> <p>4 MR. KOBRIN: Object to form.</p> <p>5 THE WITNESS: I believe that people</p> <p>6 misuse illicit drugs or really anything,</p> <p>7 unfortunately.</p> <p>8 BY MR. HUDSON:</p> <p>9 Q. Do you believe though that there's an</p> <p>10 opioid crisis in our country?</p> <p>11 MR. KOBRIN: Object to form.</p> <p>12 THE WITNESS: People misuse opiates. I</p> <p>13 believe they do.</p> <p>14 BY MR. HUDSON:</p> <p>15 Q. And do you think that the misuse of</p> <p>16 opiates has led to a crisis in our country?</p> <p>17 MR. KOBRIN: Object to form.</p> <p>18 THE WITNESS: I believe people make</p> <p>19 choices that they end up dying. It's unfortunate.</p> <p>20 BY MR. HUDSON:</p> <p>21 Q. Do you believe that drug manufacturers,</p> <p>22 distributors or dispensers have any responsibility</p> <p>23 for creating problems with opioids in our country?</p> <p>24 MR. KOBRIN: Object to form.</p> <p>25 THE WITNESS: I can speak for -- well, I</p>
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<p>1 BY MR. HUDSON:</p> <p>2 Q. Relating to SOMS specifically.</p> <p>3 MR. KOBRIN: Object to form.</p> <p>4 THE WITNESS: As I sit here today years</p> <p>5 removed, I can't recall a specific document that</p> <p>6 they may have had.</p> <p>7 MR. HUDSON: Let's take a break.</p> <p>8 MR. KOBRIN: We actually have lunch here</p> <p>9 if you want to take lunch.</p> <p>10 THE VIDEOGRAPHER: 12:45. We're off the</p> <p>11 video record.</p> <p>12 (Recess from 12:45 p.m. to 1:38 p.m.)</p> <p>13 THE VIDEOGRAPHER: 1:38. We're on the</p> <p>14 video record.</p> <p>15 BY MR. HUDSON:</p> <p>16 Q. Mr. Millward, are you aware that this</p> <p>17 litigation is about the opioid crisis?</p> <p>18 MR. KOBRIN: Object to form.</p> <p>19 THE WITNESS: As it's been explained to</p> <p>20 me, yes.</p> <p>21 BY MR. HUDSON:</p> <p>22 Q. Do you believe that there is an opioid</p> <p>23 problem in the United States?</p> <p>24 MR. KOBRIN: Object to form.</p> <p>25 THE WITNESS: Define opioid problem.</p>	<p>1 believe that the stakeholders have a -- that those</p> <p>2 medications like other dangerous prescription or</p> <p>3 any prescription drug must be used appropriately</p> <p>4 in order to be used safely.</p> <p>5 BY MR. HUDSON:</p> <p>6 Q. So your view is that drugs must be used</p> <p>7 appropriately in order to be used safely?</p> <p>8 A. Prescriptions dispensed, those</p> <p>9 medications have a very legitimate use as defined</p> <p>10 by the or as the DEA states in their scheduling as</p> <p>11 well as the prescription piece, and when used for</p> <p>12 a legitimate patient have a very legitimate use,</p> <p>13 to prevent or to treat pain.</p> <p>14 Q. Do you have opinions though on whether</p> <p>15 or not opioids are being misused in our country?</p> <p>16 A. Do I have opinions that they are?</p> <p>17 Q. Yes.</p> <p>18 MR. KOBRIN: Object to form.</p> <p>19 THE WITNESS: People abuse opiates.</p> <p>20 BY MR. HUDSON:</p> <p>21 Q. Do you believe that the manufacturers,</p> <p>22 distributors or dispensers of opioids in our</p> <p>23 country have any responsibility for causing the</p> <p>24 opioid crisis?</p> <p>25 MR. KOBRIN: Object to form.</p>

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<p>1 MR. SHAPLAND: Object to form.</p> <p>2 THE WITNESS: Responsibility for causing</p> <p>3 that? I can't speak to the manufacturers. I can</p> <p>4 only speak to Giant Eagle. And the responsibility</p> <p>5 is to ensure medications, regardless of the</p> <p>6 medication, are dispensed pursuant to a legitimate</p> <p>7 prescription for a legitimate medical use for an</p> <p>8 end user patient.</p> <p>9 BY MR. HUDSON:</p> <p>10 Q. And do you believe that Giant Eagle or</p> <p>11 HBC has caused or contributed to the diversion of</p> <p>12 any prescription drugs?</p> <p>13 MR. KOBRIN: Object to form. I just</p> <p>14 want to get it on the record that I think this is</p> <p>15 exceeding the discovery ruling on questioning or</p> <p>16 the discovery on the cause of the, quote-unquote,</p> <p>17 opioid crisis. I think that was excluded pursuant</p> <p>18 to one of the special master's orders.</p> <p>19 BY MR. HUDSON:</p> <p>20 Q. Do you agree that opioids have the</p> <p>21 potential to be diverted for illegal purposes?</p> <p>22 MR. KOBRIN: Object to form.</p> <p>23 THE WITNESS: As part of the DEA's</p> <p>24 classification of controlled substances, that's</p> <p>25 one of the criteria. Legitimate medical use is</p>	<p>1 those opportunities from occurring.</p> <p>2 BY MR. HUDSON:</p> <p>3 Q. You wanted to create policies and</p> <p>4 procedures to prevent diversion; right?</p> <p>5 A. Within Giant Eagle.</p> <p>6 Q. So in order to try to prevent diversion,</p> <p>7 did you analyze ways that prescription drugs or</p> <p>8 controlled substances could be diverted?</p> <p>9 MR. KOBRIN: Object to form.</p> <p>10 THE WITNESS: So looked at a way that --</p> <p>11 as I mentioned earlier, having a cradle to grave</p> <p>12 integrated approach to the handling of controlled</p> <p>13 substances at all three levels, so store,</p> <p>14 distribution and corporate, to look for or to</p> <p>15 mitigate opportunities for theft within those --</p> <p>16 within the realm of our control.</p> <p>17 BY MR. HUDSON:</p> <p>18 Q. So we talked about theft. But you'd</p> <p>19 agree that your controls at store, corporate and</p> <p>20 at the warehouse would not be able to prevent end</p> <p>21 user patients who obtain a prescription from using</p> <p>22 the medication for purposes different than which</p> <p>23 it was prescribed; right?</p> <p>24 MR. KOBRIN: Object to form.</p> <p>25 THE WITNESS: Can you rephrase that?</p>
<p style="text-align: center;">Page 143</p> <p>1 part, and the other is likelihood of diversion or</p> <p>2 misuse.</p> <p>3 BY MR. HUDSON:</p> <p>4 Q. Do you believe that opioids though have</p> <p>5 the potential for diversion?</p> <p>6 MR. KOBRIN: Object to form.</p> <p>7 THE WITNESS: As the DEA classifies</p> <p>8 that, correct.</p> <p>9 BY MR. HUDSON:</p> <p>10 Q. And to you, what does diversion mean?</p> <p>11 A. Diversion can be outright theft or that</p> <p>12 end user patient not using the medication as</p> <p>13 required or as prescribed or -- once that</p> <p>14 medication leaves the realm of Giant Eagle's</p> <p>15 control or the pharmacy's control in general and</p> <p>16 that patient uses it outside as prescribed.</p> <p>17 Q. Anything else in terms of diversion?</p> <p>18 A. Not off the top of my head.</p> <p>19 Q. Is that something that you did in your</p> <p>20 role, your compliance role at Giant Eagle, is</p> <p>21 tried to analyze and anticipate ways that</p> <p>22 controlled substances could be diverted?</p> <p>23 MR. KOBRIN: Object to form.</p> <p>24 THE WITNESS: The role to create</p> <p>25 policies and procedures to monitor or to prevent</p>	<p style="text-align: center;">Page 145</p> <p>1 BY MR. HUDSON:</p> <p>2 Q. Sure. You listed two potential ways</p> <p>3 prescription drugs or controlled substances are</p> <p>4 diverted. One was theft and secondly was the end</p> <p>5 user patient not using the medication as</p> <p>6 prescribed; right?</p> <p>7 A. Correct.</p> <p>8 Q. So the second one, the end user patient</p> <p>9 not using the medication as prescribed, I think as</p> <p>10 you described it, it was after they leave the</p> <p>11 pharmacy they choose to use that medication in a</p> <p>12 way differently than it was prescribed for; right?</p> <p>13 A. Correct.</p> <p>14 Q. Are there any Giant Eagle or HBC store,</p> <p>15 warehouse or corporate policies or procedures you</p> <p>16 could point to that would address an end user</p> <p>17 patient not using medication as prescribed?</p> <p>18 MR. KOBRIN: Object to form.</p> <p>19 THE WITNESS: Once the medication is</p> <p>20 dispensed pursuant to a legitimate prescription</p> <p>21 and leaves the pharmacy, it's outside of the realm</p> <p>22 of Giant Eagle's control.</p> <p>23 BY MR. HUDSON:</p> <p>24 Q. So is it fair to say that an end user</p> <p>25 patient not using medication as prescribed is not</p>

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<p>1 something that Giant Eagle has an ability to 2 prevent happening as a result of its policies and 3 procedures?</p> <p>4 MR. KOBRIN: Object to form.</p> <p>5 THE WITNESS: From my experience as a 6 pharmacist and as -- on the district level, you 7 have -- you're not able to control what choices 8 that patient makes after dispensing a legitimate 9 prescription.</p> <p>10 BY MR. HUDSON:</p> <p>11 Q. And so is it fair to say that in your 12 view, Giant Eagle did not have any policies or 13 procedures that were in place to prevent that type 14 of diversion?</p> <p>15 MR. KOBRIN: Object to form.</p> <p>16 THE WITNESS: I don't believe there's 17 even a way any company could create policies and 18 procedures to do that.</p> <p>19 BY MR. HUDSON:</p> <p>20 Q. So the other type of diversion that you 21 mentioned is theft; right?</p> <p>22 A. Um-hum.</p> <p>23 Q. And there are store, warehouse and 24 corporate policies aimed at preventing theft; 25 right?</p>	<p>1 said, has that closed system in the handoffs 2 between registrants down to end user patient, to 3 make sure that they're accounted for, that the 4 orders are legitimate and any suspicious orders or 5 prescriptions -- well, I'll say orders and leave 6 it there -- as the DEA requires, identify -- to be 7 able to identify suspicious orders of unusual 8 size, frequency or pattern.</p> <p>9 BY MR. HUDSON:</p> <p>10 Q. Why though are orders of unusual size 11 suspicious?</p> <p>12 MR. KOBRIN: Object to form.</p> <p>13 BY MR. HUDSON:</p> <p>14 Q. What makes an order of unusual size 15 suspicious from the standpoint of diversion?</p> <p>16 MR. KOBRIN: Object to form. No 17 foundation.</p> <p>18 THE WITNESS: Are you asking me to 19 speculate?</p> <p>20 BY MR. HUDSON:</p> <p>21 Q. No. I'm asking you as the senior 22 manager of compliance for Giant Eagle between 2010 23 and 2016, what was your understanding of why an 24 order of unusual size would make it suspicious?</p> <p>25 MR. KOBRIN: Object to form.</p>
<p>1 MR. KOBRIN: Object to form.</p> <p>2 THE WITNESS: Correct.</p> <p>3 BY MR. HUDSON:</p> <p>4 Q. Are there any other types of diversion 5 that you were concerned about from the standpoint 6 of compliance?</p> <p>7 MR. KOBRIN: Object to form. Asked and 8 answered.</p> <p>9 THE WITNESS: Any other than those two?</p> <p>10 BY MR. HUDSON:</p> <p>11 Q. Yes.</p> <p>12 A. I believe I said, off the top of my 13 head -- I answered no, that I can think of right 14 now.</p> <p>15 Q. Well, the SOMS, that particular -- that 16 suspicious order monitoring system is a process 17 that's put in place to try to prevent diversion; 18 right?</p> <p>19 A. Correct. That's part of it.</p> <p>20 Q. Do you have any knowledge of the type of 21 diversion that it's trying to prevent?</p> <p>22 MR. KOBRIN: Object to form.</p> <p>23 THE WITNESS: Yes. I'll refer back to 24 that. So the overall security requirements are 25 designed to create ways that that product, as you</p>	<p>1 THE WITNESS: An unusual -- an order of 2 unusual size in and of itself, essentially, that 3 would deviate from a pattern. If you know your 4 customer and the pattern at which they order and 5 there's a deviation to that, then -- it in itself, 6 the size in itself doesn't mean that the order is 7 suspicious, but it's a criteria to review.</p> <p>8 BY MR. HUDSON:</p> <p>9 Q. So in your mind, an order of unusual 10 size doesn't necessarily mean that it's a 11 suspicious order?</p> <p>12 MR. KOBRIN: Object to form.</p> <p>13 THE WITNESS: Not in of itself.</p> <p>14 BY MR. HUDSON:</p> <p>15 Q. So there could be orders of unusual size 16 that go from HBC to Giant Eagle retail pharmacies, 17 and it would be your view that those would not be 18 suspicious and would not need to be reviewed?</p> <p>19 A. Say that one more time, make sure I 20 understand.</p> <p>21 Q. There could be orders of unusual size 22 that go from HBC to Giant Eagle retail pharmacies, 23 and it would be your view that those would not be 24 suspicious and would not need to be reviewed?</p> <p>25 MR. KOBRIN: Object to form.</p>

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<p>1 THE WITNESS: Yes. That would be 2 possible. 3 BY MR. HUDSON: 4 Q. And would you also agree that there 5 could be orders deviating substantially from a 6 normal pattern that go from HBC to Giant Eagle 7 retail pharmacies, and it would be your view that 8 those would not be suspicious and would not need 9 to be reviewed? 10 MR. KOBRIN: Object to form. 11 THE WITNESS: Two different things. 12 There would have to be an understanding as to the 13 pattern or the reason for the pattern, but it 14 doesn't mean that they're suspicious. 15 BY MR. HUDSON: 16 Q. So it's possible that there could be 17 orders deviating substantially from a normal 18 pattern that go from HBC to Giant Eagle 19 pharmacies, and those would not be suspicious and 20 would not need to be reviewed; correct? 21 MR. KOBRIN: Object to form. 22 THE WITNESS: Orders of interest to 23 review before they're determined to be suspicious 24 or not. 25</p>	<p>1 THE WITNESS: Would have to be reviewed? 2 At least I would say flagged as an order of 3 interest and reviewed before any determination of 4 the suspicion. 5 BY MR. HUDSON: 6 Q. So in your mind, it's not suspicious 7 that the order deviated substantially from a 8 normal pattern. In and of itself, that doesn't 9 make it suspicious in your mind? 10 MR. KOBRIN: Object to form. 11 THE WITNESS: Not inclusive. 12 BY MR. HUDSON: 13 Q. And would that be true as well for 14 orders of unusual frequency, that those wouldn't 15 necessarily be suspicious orders in and of 16 themselves? 17 MR. KOBRIN: Object to form. 18 THE WITNESS: In and of itself; correct. 19 BY MR. HUDSON: 20 Q. Do you agree that HBC needed to have 21 some sort of a system that would flag any orders 22 of unusual size, orders deviating substantially 23 from a normal pattern and orders of unusual 24 frequency? 25 MR. KOBRIN: Object to form.</p>
<p style="text-align: center;">Page 151</p> <p>1 BY MR. HUDSON: 2 Q. But it's your view, just so we're clear, 3 it's your view that there could be orders 4 deviating substantially from a normal pattern that 5 go from HBC to Giant Eagle retail pharmacies, and 6 those would not be suspicious and would not need 7 to be reviewed? 8 MR. KOBRIN: Object to form. 9 THE WITNESS: Orders of interest to be 10 reviewed before determined if they were 11 suspicious. 12 BY MR. HUDSON: 13 Q. So does every single order or every 14 single shipment that deviated substantially from a 15 normal pattern, does that need to be reviewed? 16 MR. KOBRIN: Object to form. 17 THE WITNESS: Are you asking future 18 tense as "does" or past tense? 19 BY MR. HUDSON: 20 Q. I'm asking between 2009 and 2014 when 21 HBC was shipping hydrocodone combination products, 22 would you agree with me that any order that 23 deviated substantially from the normal pattern 24 would need to be reviewed? 25 MR. KOBRIN: Object to form.</p>	<p style="text-align: center;">Page 153</p> <p>1 THE WITNESS: I believe that was asked 2 before. But yes, because that would be compliant 3 with the reg. 4 BY MR. HUDSON: 5 Q. Are you aware that HBC was a distributor 6 of hydrocodone combination products? 7 A. As they were Schedule IIIs. 8 Q. Are you familiar with hydrocodone 9 combination products? 10 A. I am. 11 Q. And you're familiar with hydrocodone? 12 A. As a pharmacist. 13 (HBC-Millward Exhibit 6 was marked.) 14 BY MR. HUDSON: 15 Q. Let me hand you what I've marked as 16 Exhibit 6 here. 17 MR. HUDSON: Exhibit 6, P-GEN-86 is the 18 internal reference number. 19 MR. KOBRIN: Is there a date on this 20 document? 21 MR. HUDSON: I don't know. I do know on 22 the second page, it says, "Hydrocodone is a 23 Schedule II narcotic that is marketed in 24 multi-ingredient Schedule III products." So it 25 was before October 2014.</p>

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<p>1 BY MR. HUDSON:</p> <p>2 Q. Have you had a chance to review the DEA</p> <p>3 Drug Fact Sheet?</p> <p>4 A. Finishing up, but yes.</p> <p>5 MR. KOBRIN: Do you know where you got</p> <p>6 this?</p> <p>7 MR. HUDSON: I think from the Drug</p> <p>8 Enforcement Administration.</p> <p>9 MR. KOBRIN: Is it still up on their</p> <p>10 website?</p> <p>11 MR. HUDSON: I don't know that.</p> <p>12 THE WITNESS: Okay.</p> <p>13 BY MR. HUDSON:</p> <p>14 Q. Do you see there under the Overview, it</p> <p>15 says, "Hydrocodone is the most frequently</p> <p>16 prescribed opioid in the United States and is</p> <p>17 associated with more drug abuse and diversion than</p> <p>18 any other elicit or illicit opioid"?</p> <p>19 A. I do see that sentence.</p> <p>20 Q. Do you have any reason to disagree with</p> <p>21 that sentence?</p> <p>22 A. No. I don't have any data to dispute</p> <p>23 the DEA's statement.</p> <p>24 Q. Then if you go down to the bottom, do</p> <p>25 you see it says, "There are numerous brand and</p>	<p>1 represent to you is a printout of a spreadsheet</p> <p>2 that was provided to us, and I believe in the top</p> <p>3 right it says P-HBC-6011.</p> <p>4 And, again, I'll represent to you that I took</p> <p>5 the spreadsheet that was transactional data of HBC</p> <p>6 and just sorted it by order of date.</p> <p>7 A. Okay. I see that on the third column</p> <p>8 from the right.</p> <p>9 Q. Right. So you see there and then under</p> <p>10 the drug name, you see hydro, hydro, hydro, all</p> <p>11 the way down. And then it's got the buyer's</p> <p>12 number, the buyer's address, the buyer's city, the</p> <p>13 buyer's state.</p> <p>14 What you have before you are all transactions</p> <p>15 or shipments that were sent by HBC to retail</p> <p>16 pharmacies in Summit County. And you can probably</p> <p>17 recognize that from the names of the cities.</p> <p>18 A. I'll be honest. I'm not familiar with</p> <p>19 the county designations for Ohio as a geography</p> <p>20 thing.</p> <p>21 Q. And then also, one of the requirements</p> <p>22 under the Controlled Substances Act is to report</p> <p>23 data to the DEA's ARCOS unit; correct?</p> <p>24 A. Correct.</p> <p>25 Q. And that was also something that HBC did</p>
<p style="text-align: center;">Page 155</p> <p>1 generic hydrocodone products marketed in the</p> <p>2 United States. All are combination products. The</p> <p>3 most frequently prescribed combination is</p> <p>4 hydrocodone and acetaminophen."</p> <p>5 And then it's got examples of Vicodin and</p> <p>6 Lortab, Lorcet, and then other examples of</p> <p>7 combination products include those containing</p> <p>8 aspirin, which, again, is Lortab ASA, ibuprofen</p> <p>9 and then antihistamines.</p> <p>10 And those are drugs you're familiar with;</p> <p>11 correct?</p> <p>12 A. Correct.</p> <p>13 Q. Those were drugs that HBC acted as a</p> <p>14 distributor of; correct?</p> <p>15 A. The hydrocodone-containing products?</p> <p>16 Q. Yeah, hydrocodone combination products.</p> <p>17 A. Combination products?</p> <p>18 Q. Yes.</p> <p>19 A. I'm sorry. Thank you. Yes.</p> <p>20 Q. Do you have any sense of the volume of</p> <p>21 hydrocodone combination products that HBC acted as</p> <p>22 a distributor of?</p> <p>23 A. I do not.</p> <p>24 Q. Let me -- I'm going to avoid marking</p> <p>25 these, but I'm going to hand you what I'll</p>	<p style="text-align: center;">Page 157</p> <p>1 during the time it was a distributor; correct?</p> <p>2 A. I believe so. Did not oversee that.</p> <p>3 (HBC-Millward Exhibit 7 was marked.)</p> <p>4 BY MR. HUDSON:</p> <p>5 Q. Let me hand you what I've marked as</p> <p>6 Exhibit 7.</p> <p>7 MR. KOBRIN: Are we going to make this</p> <p>8 as an exhibit? We'd like to mark it as an</p> <p>9 exhibit.</p> <p>10 MR. HUDSON: Do you want to mark it?</p> <p>11 MR. KOBRIN: Yeah. I think it makes</p> <p>12 sense.</p> <p>13 (HBC-Millward Exhibit 8 was marked.)</p> <p>14 MR. HUDSON: That's fine. So we'll mark</p> <p>15 that as Exhibit 8. I apologize. I don't have</p> <p>16 copies because I was not going to mark it.</p> <p>17 MR. BARTON: So HBC-6011 is Exhibit 8.</p> <p>18 (HBC-Millward Exhibit 9 was marked.)</p> <p>19 BY MR. HUDSON:</p> <p>20 Q. What I'll do is I'll go ahead and</p> <p>21 mark -- I'll go ahead and mark as 9 what I'm</p> <p>22 handing you here, which is the data into Cuyahoga,</p> <p>23 the data of shipments from HBC into retail</p> <p>24 pharmacies in Cuyahoga.</p> <p>25 MR. KOBRIN: That is 9?</p>

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<p>1 MR. HUDSON: That is 9.</p> <p>2 BY MR. HUDSON:</p> <p>3 Q. So if we go back to Exhibit 7 -- I think</p> <p>4 it's going to be easier just to work with the</p> <p>5 cumulative numbers there -- and turn to the second</p> <p>6 page of Exhibit 7, then you see there in 2006,</p> <p>7 2007, 2008 and then most of 2009, do you see there</p> <p>8 that McKesson was acting as the distributor?</p> <p>9 MR. KOBRIN: What page are you on?</p> <p>10 MR. HUDSON: Page 2.</p> <p>11 BY MR. HUDSON:</p> <p>12 Q. Was acting as the distributor.</p> <p>13 MS. CHARLES: Object to form.</p> <p>14 THE WITNESS: There in 2006, 2007, 2008</p> <p>15 and 2009?</p> <p>16 BY MR. HUDSON:</p> <p>17 Q. Right. Do you see for HBC Service</p> <p>18 Company, there's zero?</p> <p>19 A. Until 2009.</p> <p>20 Q. Right. And then if you look at 2009,</p> <p>21 2010, 2011, 2012, 2013 and 2014, I'll represent to</p> <p>22 you that those are the totals that our experts put</p> <p>23 together of the dosage units shipped from HBC to</p> <p>24 Giant Eagle pharmacies in Cuyahoga. And you see</p> <p>25 there at the top for Cuyahoga, the total is</p>	<p>1 THE WITNESS: I don't recall the number</p> <p>2 of stores.</p> <p>3 BY MR. HUDSON:</p> <p>4 Q. Does around 40 seem in the ballpark, at</p> <p>5 least based on your experience from acting as a</p> <p>6 pharmacy district leader in that area?</p> <p>7 MR. KOBRIN: Object to form.</p> <p>8 THE WITNESS: Again, I don't remember</p> <p>9 the number.</p> <p>10 BY MR. HUDSON:</p> <p>11 Q. In terms of a suspicious order</p> <p>12 monitoring system, do you agree that between 2009</p> <p>13 and 2014 when HBC acted as a distributor of these</p> <p>14 hydrocodone combination products, that HBC had an</p> <p>15 obligation to have a system in place to monitor</p> <p>16 orders and try to detect suspicious orders?</p> <p>17 MR. KOBRIN: Object to form.</p> <p>18 THE WITNESS: As asked before and</p> <p>19 answered before, all registrants -- all</p> <p>20 distributors have that responsibility under the</p> <p>21 code.</p> <p>22 BY MR. HUDSON:</p> <p>23 Q. So if you could, now that we've got some</p> <p>24 idea of the volume of shipments into Cuyahoga and</p> <p>25 Summit County, describe for me, if you could, how</p>
<p>1 10,103,720 dosage units?</p> <p>2 A. I see that highlighted.</p> <p>3 Q. And then if we go to two pages back,</p> <p>4 we've got the same data here. For HBC Service</p> <p>5 Company, you can see there from 2009 to 2014,</p> <p>6 you've got the totals there. And then at the top,</p> <p>7 we've got the total into Summit County of</p> <p>8 8,892,360 dosage units.</p> <p>9 A. That is what that paper shows.</p> <p>10 Q. So combined between Summit and Cuyahoga</p> <p>11 counties, there's more than 18 million dosage</p> <p>12 units of hydrocodone combination products that</p> <p>13 were shipped from HBC into Giant Eagle retail</p> <p>14 pharmacies in Summit or Cuyahoga County.</p> <p>15 A. Okay.</p> <p>16 Q. Do you see that?</p> <p>17 MR. KOBRIN: Object to form.</p> <p>18 BY MR. HUDSON:</p> <p>19 Q. And do you know as you sit here</p> <p>20 approximately how many retail pharmacies Giant</p> <p>21 Eagle has in Cuyahoga or Summit County?</p> <p>22 MR. KOBRIN: At this time?</p> <p>23 MR. HUDSON: No, back between 2009 and</p> <p>24 2014.</p> <p>25 MR. KOBRIN: Object to form.</p>	<p>1 HBC -- how HBC's system operated to flag</p> <p>2 potentially suspicious orders.</p> <p>3 MR. KOBRIN: Object to form.</p> <p>4 THE WITNESS: As we talked about</p> <p>5 earlier, HBC distributed only to Giant Eagle</p> <p>6 pharmacies as part of our integrated levels of</p> <p>7 control at the store level, corporate level and</p> <p>8 distributor level to monitor movement of all</p> <p>9 medications through the supply chain and to the</p> <p>10 end user patient or the, reverse, distributor.</p> <p>11 BY MR. HUDSON:</p> <p>12 Q. So let's break that down then. So can</p> <p>13 we agree that the pharmacy merchandising group or</p> <p>14 the procurement group is a group within Giant</p> <p>15 Eagle that was responsible for buying prescription</p> <p>16 drugs; right?</p> <p>17 MR. KOBRIN: Object to form.</p> <p>18 THE WITNESS: They had and negotiated</p> <p>19 the contracts with the manufacturers to bring</p> <p>20 product into HBC of all kinds.</p> <p>21 BY MR. HUDSON:</p> <p>22 Q. So they're buying. I'm just trying to</p> <p>23 make an easy way to understand this process.</p> <p>24 We've got the procurement group of Giant Eagle,</p> <p>25 and they're out buying these hydrocodone</p>

<p style="text-align: right;">Page 162</p> <p>1 combination products from different manufacturers; 2 right? 3 A. Until it was rescheduled as a Schedule 4 II. 5 Q. Right. Correct. For purposes of all 6 these questions, I'm talking about the timeframe 7 between 2009 and October of 2014 when HBC was 8 acting as a licensed distributor of hydrocodone 9 combination products. Okay? 10 A. Okay. 11 Q. So at the time, the way the process 12 would work is that the procurement group would go 13 and buy the hydrocodone combination products from 14 various manufacturers of those drugs; right? 15 MR. KOBRIN: Object to form. 16 THE WITNESS: I can't speak again until 17 I got in the role in 2010 and then into 2011. But 18 that was my understanding, that they would 19 negotiate those contracts and order product as 20 needed, controlled and noncontrolled. 21 BY MR. HUDSON: 22 Q. And so then that product would then be 23 shipped into the HBC warehouse; right? 24 A. Correct. 25 Q. And that's the big warehouse that's in</p>	<p style="text-align: right;">Page 164</p> <p>1 prescription that was filled for the 18 million 2 dosage units of hydrocodone combination products 3 that were shipped to retail pharmacies were 4 legitimate? 5 MR. KOBRIN: Object to form. 6 THE WITNESS: Each individual pharmacist 7 has a corresponding obligation with that of the 8 prescriber to ensure the legitimacy of that 9 prescription before it can be filled. 10 BY MR. HUDSON: 11 Q. So today you're confident testifying 12 under oath that the 18 million dosage units of 13 hydrocodone that were shipped into Cuyahoga and 14 Summit County, all of those were dispensed by 15 pharmacists to patients with legitimate 16 prescriptions? 17 MR. KOBRIN: Object to form. 18 Misrepresents testimony. 19 THE WITNESS: Again, I have not reviewed 20 all prescriptions for the State of Ohio or those 21 counties in question, but each pharmacist, 22 pursuant to CSA, has a corresponding 23 responsibility with that of the prescriber to 24 ensure that the prescription meets the criteria 25 for being legitimate, it's for legitimate medical</p>
<p style="text-align: right;">Page 163</p> <p>1 Washington, Pennsylvania? 2 A. That's where it was located; correct. 3 Q. So then at that point, it would be put 4 into the warehouse. And then as orders were 5 needed, there would be totes that would be filled, 6 and then those orders would be shipped to the 7 different retail pharmacies in different places; 8 right? 9 MR. KOBRIN: Object to form. 10 THE WITNESS: Correct. That's how the 11 distribution center would fulfill orders, my 12 understanding. 13 BY MR. HUDSON: 14 Q. And then in the retail pharmacies, then 15 the pharmacist would fill prescriptions, and the 16 patients would obviously have their prescription 17 drugs; right? 18 MR. KOBRIN: Object to form. 19 THE WITNESS: The pharmacies would 20 receive the orders, whether it was from McKesson, 21 HBC, Anda, wherever, and then use that inventory 22 to fill legitimate prescriptions from prescribers. 23 BY MR. HUDSON: 24 Q. Well, how did they know that -- is it 25 your testimony today that each and every</p>	<p style="text-align: right;">Page 165</p> <p>1 use, that there's a bona fide relationship between 2 the patient and the prescriber, and that the 3 prescriber is acting in the normal course of his 4 professional practice. 5 BY MR. HUDSON: 6 Q. And, sir, are you confident testifying 7 here today that all of the 18 million dosage units 8 of hydrocodone combination products that were 9 shipped into Giant Eagle retail pharmacies in 10 Cuyahoga and Summit counties were, in fact, 11 dispensed to legitimate patients? 12 MR. KOBRIN: Object to form. Misstates 13 the testimony. 14 THE WITNESS: Restate that. 15 BY MR. HUDSON: 16 Q. Are you confident in testifying here 17 today that all of the 18 million dosage units of 18 hydrocodone combination products that were shipped 19 into Giant Eagle retail pharmacies in Cuyahoga and 20 Summit counties were, in fact, dispensed to 21 legitimate patients? 22 MR. KOBRIN: Object to form. 23 THE WITNESS: The medications 24 that -- I'm sorry -- the dosage units that were 25 dispensed to or on -- subsequent to a</p>

<p style="text-align: right;">Page 166</p> <p>1 prescription, I believe, while I can't -- I have 2 not reviewed each individual prescription for its 3 own individual merit, I trust that our pharmacists 4 following their requirement and their training 5 followed the law in dispensing prescriptions to 6 legitimate or legitimate prescriptions to 7 legitimate patients.</p> <p>8 BY MR. HUDSON:</p> <p>9 Q. You're confident that Giant Eagle had 10 written policies in place that made sure that 11 there was no diversion of any of the 18 million 12 dosage units of hydrocodone combination products 13 that were shipped into Giant Eagle retail 14 pharmacies in Cuyahoga and Summit counties?</p> <p>15 MR. KOBRIN: Object to form.</p> <p>16 THE WITNESS: Can I have you repeat that 17 one more time, please?</p> <p>18 BY MR. HUDSON:</p> <p>19 Q. Sure. You're confident that Giant Eagle 20 had written policies in place that made sure there 21 was no diversion of any of the 18 million dosage 22 units of hydrocodone combination products that 23 were shipped into Giant Eagle retail pharmacies in 24 Cuyahoga and Summit counties?</p> <p>25 MR. KOBRIN: Same objection.</p>	<p style="text-align: right;">Page 168</p> <p>1 And then ultimately, in the last statement on 2 the controlled substances dispensing guidelines, a 3 pledge to the pharmacist that if they determine a 4 prescription was not legitimate or a doctor 5 couldn't justify its use and they chose not to 6 fill it, the company would support them.</p> <p>7 Q. But before we talked about the types of 8 diversion, and you said theft; right?</p> <p>9 A. Correct.</p> <p>10 Q. So you've got written policies in place 11 at the retail pharmacy level to prevent theft; 12 correct?</p> <p>13 A. Correct.</p> <p>14 Q. Explain to me in the overall suspicious 15 order monitoring system how what happens at the 16 retail operations or what happens at corporate has 17 an impact on a suspicious order monitoring system 18 at the HBC warehouse.</p> <p>19 A. Again, it goes down to the levels, the 20 integrated levels of control, that we spoke about, 21 over.</p> <p>22 Q. Specifically, what is the integration 23 though?</p> <p>24 A. The store level responsibilities to 25 prevent the opportunity for theft and diversion or</p>
<p style="text-align: right;">Page 167</p> <p>1 THE WITNESS: Giant Eagle had policies 2 and procedures in place to prevent the opportunity 3 for diversion. It also had loss prevention and 4 procedures to detect if there were variances and 5 then to investigate and, in the case of Ohio 6 stores, work with the Ohio Board of Pharmacy to 7 investigate and have them prosecute.</p> <p>8 BY MR. HUDSON:</p> <p>9 Q. Well, we know, sir, earlier from today 10 that there were no written policies in place 11 before at least August 1, 2014; right?</p> <p>12 MR. KOBRIN: Object to form.</p> <p>13 Misrepresents testimony.</p> <p>14 THE WITNESS: So the document you have I 15 believe -- what was the number?</p> <p>16 BY MR. HUDSON:</p> <p>17 Q. Exhibit 5.</p> <p>18 A. So that's for HBC. We had policies and 19 procedures in place at retail that were the 20 controlled substances dispensing guidelines that 21 were created to instruct, guide our pharmacy teams 22 in, again, their corresponding responsibility to 23 the security of the department as to who has 24 access, how to receive orders, in determining that 25 a prescription is legitimate before dispensing it.</p>	<p style="text-align: right;">Page 169</p> <p>1 theft at the store level. On the handling of the 2 medication, pharmacies, for example, are required 3 to do a physical inventory every month. And 4 that's a standard of practice across retail, or at 5 least in my experience through Rite-Aid and Giant 6 Eagle, as an example of one of those control 7 mechanisms.</p> <p>8 Q. You keep using the word "integrated," 9 integrated system. How is that policy in place at 10 a retail pharmacy to prevent theft, how is that 11 integrated into what HBC is doing at their 12 warehouse?</p> <p>13 MR. KOBRIN: Object to form.</p> <p>14 THE WITNESS: Having control of the 15 product the entire -- so Giant Eagle has control 16 of that product the entire way from when it comes 17 into the distribution center to when it goes to 18 the end user patient, and those policies and 19 dispensing procedures and pharmacy laws, rules and 20 regulations all play roles into ensuring that -- 21 play a role that the medications are dispensed 22 appropriately for legitimate prescriptions, and 23 have procedures in place that if there is a 24 discrepancy that's found, that it is investigated 25 and reported as appropriate, as required.</p>

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<p>1 BY MR. HUDSON:</p> <p>2 Q. Let me ask you this: How many shipments</p> <p>3 to retail pharmacies, Giant Eagle retail</p> <p>4 pharmacies, did Giant Eagle retail pharmacies</p> <p>5 report to the DEA as being suspicious?</p> <p>6 MR. KOBRIN: Object to form.</p> <p>7 THE WITNESS: Timeframe, please.</p> <p>8 BY MR. HUDSON:</p> <p>9 Q. Ever.</p> <p>10 A. I can't speak for anything beyond or</p> <p>11 prior to my time.</p> <p>12 Q. 2009 to 2016 then. Are you aware of any</p> <p>13 Giant Eagle retail pharmacy that ever reported to</p> <p>14 the DEA a suspicious order of controlled</p> <p>15 substances?</p> <p>16 A. A Giant Eagle pharmacy?</p> <p>17 Q. Yes.</p> <p>18 A. Reporting a suspicious order?</p> <p>19 Q. Correct.</p> <p>20 A. Suspicious prescription? Because the</p> <p>21 pharmacy would see the prescription.</p> <p>22 Q. A suspicious order. If it's an</p> <p>23 integrated system, are you saying that the retail</p> <p>24 pharmacies are playing some role in trying to</p> <p>25 identify orders of unusual size?</p>	<p>1 A. In the office we created a reporting</p> <p>2 system to see if there were -- among the other</p> <p>3 tools that we had and the other policies and</p> <p>4 procedures in place, a tool to assist us in</p> <p>5 looking at, as I stated earlier, looking at</p> <p>6 monitoring drug movement throughout the</p> <p>7 organization.</p> <p>8 Q. And was that the threshold reports?</p> <p>9 A. Threshold was a tool that assisted in</p> <p>10 the process.</p> <p>11 Q. When was this process put in place?</p> <p>12 A. Specific date I don't recall. You may</p> <p>13 have to refresh me. But I would say somewhere</p> <p>14 2013-ish.</p> <p>15 Q. Who put the process or practice in</p> <p>16 place?</p> <p>17 MR. KOBRIN: Object to form.</p> <p>18 THE WITNESS: It was a team approach.</p> <p>19 BY MR. HUDSON:</p> <p>20 Q. Was this the project with Kayla Voelker?</p> <p>21 A. Correct.</p> <p>22 Q. And she then created the daily</p> <p>23 suspicious reports?</p> <p>24 A. Well, the white board planning would</p> <p>25 have been involving more Shawn Boyton. Kayla was</p>
<p>Page 171</p> <p>1 A. The system is designed to prevent orders</p> <p>2 of unusual size or to identify and call them out.</p> <p>3 Q. Right. So is it your testimony that</p> <p>4 Giant Eagle retail pharmacies, as part of their</p> <p>5 integrated system, actually played a role and</p> <p>6 tried to identify orders of unusual size?</p> <p>7 A. I believe there were two orders that</p> <p>8 were identified and reported.</p> <p>9 Q. And those were of buprenorphine?</p> <p>10 A. Buprenorphine, yes. You can say</p> <p>11 Subutex, which is the brand name of the single</p> <p>12 entity.</p> <p>13 Q. Neither one of those were hydrocodone</p> <p>14 combination products; right?</p> <p>15 A. That is correct.</p> <p>16 Q. Both of those were orders that were</p> <p>17 detected at HBC or were those detected by retail</p> <p>18 pharmacies?</p> <p>19 A. They were detected --</p> <p>20 MR. KOBRIN: Object to form.</p> <p>21 THE WITNESS: They were detected</p> <p>22 corporately.</p> <p>23 BY MR. HUDSON:</p> <p>24 Q. And when you say corporately, what do</p> <p>25 you mean?</p>	<p>Page 173</p> <p>1 the execution piece for generating the reports.</p> <p>2 Q. And were you also involved?</p> <p>3 A. Yes.</p> <p>4 Q. So did you and Shawn Boyton -- you then</p> <p>5 white boarded a process or a practice to follow to</p> <p>6 flag suspicious orders?</p> <p>7 MR. KOBRIN: Object to form.</p> <p>8 THE WITNESS: Shawn was more well versed</p> <p>9 in the systems, the inventory systems piece beyond</p> <p>10 me. That was outside of my expertise. The</p> <p>11 nitty-gritty of it I should say.</p> <p>12 BY MR. HUDSON:</p> <p>13 Q. Describe for me how the process or</p> <p>14 practice worked.</p> <p>15 MR. KOBRIN: Object to form. No</p> <p>16 foundation.</p> <p>17 THE WITNESS: Once the report was</p> <p>18 generated you mean?</p> <p>19 BY MR. HUDSON:</p> <p>20 Q. In general -- sorry. I didn't mean to</p> <p>21 interrupt you. I'll start over.</p> <p>22 At some point in 2013, you and Shawn Boyton</p> <p>23 sat down and white boarded out a process for</p> <p>24 monitoring shipments of prescription drugs; right?</p> <p>25 MR. KOBRIN: Object to form.</p>

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<p>1 THE WITNESS: Looking at overall 2 movement.</p> <p>3 BY MR. HUDSON:</p> <p>4 Q. And that was something that you did at 5 the Giant Eagle corporate offices; right?</p> <p>6 A. Correct.</p> <p>7 Q. What particular inventory systems were 8 you looking at to evaluate the overall movement?</p> <p>9 A. The names of the systems, so PDX, which 10 was the dispensing system. I don't know the name 11 of the system used on the HBC side. That's not my 12 area of expertise. I don't know the system.</p> <p>13 Q. So PDX is at Giant Eagle?</p> <p>14 A. PDX is a third-party product. It's a 15 company that Giant Eagle -- it's a dispensing 16 system, essentially, with an inventory component. 17 And that's the name, the company's name, PDX.</p> <p>18 Q. When you and Shawn Boyton sat down, was 19 there anyone else in the room?</p> <p>20 A. I don't recall.</p> <p>21 Q. Other than you, Shawn Boyton and Kayla 22 Voelker, was there anyone else involved in either 23 designing or creating this new process?</p> <p>24 MR. KOBRIN: Object to form.</p> <p>25 THE WITNESS: George as the compliance</p>	<p>1 don't remember the date of it. I apologize for 2 that. I'm sorry.</p> <p>3 Q. Who from the group was tasked with 4 figuring out the process to put in place?</p> <p>5 MR. KOBRIN: Object to form.</p> <p>6 THE WITNESS: I can't say there was a 7 specific "You are a hundred percent in charge." 8 It was discussions and sharing opinions and vision 9 and say what can we do, and Shawn being able to 10 brainstorm on his end and taking input from George 11 and anybody else who we may have talked to.</p> <p>12 BY MR. HUDSON:</p> <p>13 Q. As a result of that meeting, what 14 happened? What did you put in place or what did 15 you do?</p> <p>16 MR. KOBRIN: Object to form.</p> <p>17 THE WITNESS: It eventually led to the 18 creation of what unfortunately I believe is the or 19 referred to as the Voelker report only because 20 Kayla is nice. But that's what it...</p> <p>21 BY MR. HUDSON:</p> <p>22 Q. What is the Voelker report then?</p> <p>23 A. A report that measured the movement of 24 product and to compare it to some baseline.</p> <p>25 Q. Did anything else occur as a result of</p>
<p style="text-align: center;">Page 175</p> <p>1 manager would have had involvement. Other people 2 in the room, I can't speculate, or people that we 3 consulted or bounced off or sought input from, I 4 can't accurately tell you who they were and when.</p> <p>5 BY MR. HUDSON:</p> <p>6 Q. Was anyone taking notes?</p> <p>7 A. Not that I recall.</p> <p>8 Q. Was there an agenda put together before 9 the meeting?</p> <p>10 A. No.</p> <p>11 Q. Were there any like written deliverables 12 from this meeting to memorialize what was being 13 done and why?</p> <p>14 MR. KOBRIN: Object to form.</p> <p>15 THE WITNESS: Not that I'm aware of. 16 Some of it was kind of ad hoc, spur of the moment.</p> <p>17 BY MR. HUDSON:</p> <p>18 Q. What caused this ad hoc or 19 spur-of-the-moment meeting to occur?</p> <p>20 A. Part of a continued evolution of our 21 current practices and how can we go from good to 22 better, go to best.</p> <p>23 Q. Was this after you had attended the DEA 24 meeting in Washington, DC?</p> <p>25 A. Where it falls in, I'll be honest, I</p>	<p style="text-align: center;">Page 177</p> <p>1 that meeting?</p> <p>2 MR. KOBRIN: Object to form.</p> <p>3 THE WITNESS: I don't want to speculate 4 on the meeting. I don't remember specifically 5 what else came beyond that.</p> <p>6 BY MR. HUDSON:</p> <p>7 Q. The main takeaway though from that 8 meeting was the creation of the Voelker report or 9 threshold reports or whatever --</p> <p>10 A. However you want to call it.</p> <p>11 Q. -- label we want to put on it?</p> <p>12 I'm going to hand you a number of these.</p> <p>13 MR. HUDSON: In fact, let's just go off 14 the record for a minute. I'll get myself 15 organized and then start and do it quicker.</p> <p>16 THE VIDEOGRAPHER: 2:31. We're off the 17 video record.</p> <p>18 (Recess from 2:31 p.m. to 2:57 p.m.)</p> <p>19 THE VIDEOGRAPHER: 2:57. We are on the 20 video record.</p> <p>21 (HBC-Millward Exhibits 10 - 21 was marked.)</p> <p>22 BY MR. HUDSON:</p> <p>23 Q. Before the break we were talking about I 24 think what you described as the Voelker report. 25 I'm going to hand you what I've marked as</p>

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<p>1 Exhibits 10 through 21. And take a minute to look 2 at those.</p> <p>3 MR. HUDSON: Their internal reference 4 number is P-HBC-1052 through 1063.</p> <p>5 MR. KOBRIN: We're marking them in 6 order? Are they all in the same order?</p> <p>7 MR. HUDSON: Yep.</p> <p>8 BY MR. HUDSON:</p> <p>9 Q. I'll represent to you that in HBC's 10 production, we found about 1200 different daily 11 reports. So what I've done is picked the last day 12 of each month between October of 2013, which was 13 the first month I could find one in the 14 production, and September of 2014.</p> <p>15 If you look also on the first page of the 16 first exhibit, you can see there the placeholder 17 indicates that it's a document title Microsoft XML 18 Workbook. Then it's got a title, a number and 19 then _Daily_HBC_Controls.</p> <p>20 A. I see that.</p> <p>21 Q. Are you familiar with these Excel 22 workbook spreadsheets?</p> <p>23 A. Yes.</p> <p>24 Q. And do you know when you began creating 25 these daily reports?</p>	<p>1 this daily control report worked. What would 2 happen?</p> <p>3 MR. KOBRIN: Object to form.</p> <p>4 THE WITNESS: It is a report that would 5 be the -- it was a daily report and reviewing or 6 identifying stores that had been shipped 7 quantities to -- based on our first pass at what 8 a, as they call them, fresh quantity, again our 9 first pass at what that would be, how their 10 accumulation for the calendar month would be.</p> <p>11 BY MR. HUDSON:</p> <p>12 Q. Would these be generated each day?</p> <p>13 A. Correct.</p> <p>14 Q. Then who received them?</p> <p>15 A. I don't have the email list. I received 16 them. There were a number of people that received 17 them.</p> <p>18 Q. You received the report each day or you 19 received an email or how -- in what form did you 20 receive a report?</p> <p>21 MR. KOBRIN: Object to form.</p> <p>22 THE WITNESS: The report came via email, 23 but I cannot recall generated directly from the 24 system or forwarded over after it was -- if it was 25 run, if it was an automatic distribution.</p>
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<p>1 A. I have no idea.</p> <p>2 MR. KOBRIN: Object to form.</p> <p>3 THE WITNESS: I don't recall the 4 specific date that they began.</p> <p>5 BY MR. HUDSON:</p> <p>6 Q. Any reason to believe it wasn't October 7 of 2013?</p> <p>8 A. Again, I don't know the date it started, 9 the exact date, but somewhere.</p> <p>10 Q. I've represented to you the earliest 11 ones I could find is October 2013.</p> <p>12 My question is just: Is there any reason 13 that you have to believe that these reports were 14 being created before October of 2013?</p> <p>15 A. I don't have, based on the refresh, have 16 any documentation to say that they were created 17 before.</p> <p>18 Q. So who created -- by the way, is that an 19 SQL? Have you heard that phrase before?</p> <p>20 MR. KOBRIN: Object to form.</p> <p>21 THE WITNESS: I've heard it. I'm not an 22 Excel person, to tell you the truth. So I 23 couldn't create it.</p> <p>24 BY MR. HUDSON:</p> <p>25 Q. Just tell me what you know about how</p>	<p>1 (HBC-Millward Exhibit 22 was marked.)</p> <p>2 BY MR. HUDSON:</p> <p>3 Q. Let me hand you what I'm marking as 4 Exhibit 22.</p> <p>5 MR. HUDSON: And Exhibit 22 has been -- 6 our internal number is 1094, P-HBC-1094.</p> <p>7 BY MR. HUDSON:</p> <p>8 Q. On Exhibit 22, if you turn to the second 9 page, there's an email from Kayla Voelker to a 10 distribution list including you. It says Daily 11 HBC Suspicious Purchasing Report - 11/13/13.</p> <p>12 A. I see that.</p> <p>13 Q. Is that the email that you received?</p> <p>14 A. Yes. I would have received this email.</p> <p>15 Q. When you said you received the report or 16 an email, is this what you were talking about, is 17 you would receive an email like this?</p> <p>18 A. I received this, yeah. I received this 19 email. Can you rephrase it? Yeah, this is an 20 email I received.</p> <p>21 (HBC-Millward Exhibit 23 was marked.)</p> <p>22 BY MR. HUDSON:</p> <p>23 Q. Let me just give you what I marked as 24 Exhibit 23 as well. It may help.</p> <p>25 A. There we go.</p>

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<p>1 Q. Again, if you look at Exhibit 23, at the 2 bottom email, again, this is another email from 3 Ms. Voelker to it looks like the same distribution 4 list. Do you see that?</p> <p>5 A. I see that.</p> <p>6 Q. Do you know whether this was an 7 automated email that was sent or whether she 8 reviewed the report and then manually sent it out?</p> <p>9 MR. KOBRIN: Object to form.</p> <p>10 THE WITNESS: It appears that Kayla 11 generated the report on a daily basis and then 12 distributed it.</p> <p>13 BY MR. HUDSON:</p> <p>14 Q. Manually though?</p> <p>15 A. That's -- I can't say how or what 16 Kayla -- it appears that way.</p> <p>17 Q. What if there was a given day that there 18 were no shipments that exceeded the purchasing 19 thresholds, would an email still be sent?</p> <p>20 A. No.</p> <p>21 Q. To the best of your knowledge, do you 22 believe it was a manual process where she would 23 review the report and then choose to then email 24 the distribution list if there were pharmacies 25 that had purchases exceeding the thresholds?</p>	<p>1 to Todd -- is it Roahrig -- you wrote to Todd, 2 "Store A is flagged as having hit their threshold 3 for total hydrocodone products. Can you please 4 check to see if this is an anomaly or if the order 5 should be considered suspicious."</p> <p>6 MR. KOBRIN: Object to form.</p> <p>7 BY MR. HUDSON:</p> <p>8 Q. Do you see that?</p> <p>9 A. I see my response.</p> <p>10 Q. And then he wrote back and said it's 11 actually for a generic and the quantity would be 12 about 17 bottles.</p> <p>13 And then he said, Renee replied that she had 14 a ton of scripts for this and a lot of owes due to 15 cough/cold season and this is a particular choice 16 of syrup for a prescription there, I believe. I 17 don't have details, but assuming eight ounces is a 18 typical RF, that's only 34 scripts, so not 19 probably unusual at their volume.</p> <p>20 Do you see that?</p> <p>21 MR. KOBRIN: Object to form.</p> <p>22 Misrepresents the exhibit.</p> <p>23 THE WITNESS: I see Todd's response.</p> <p>24 BY MR. HUDSON:</p> <p>25 Q. So is this the type of review that would</p>
<p>1 MR. KOBRIN: Objection. Object to form.</p> <p>2 Asked and answered. Calls for speculation.</p> <p>3 THE WITNESS: Repeat the question, 4 please.</p> <p>5 BY MR. HUDSON:</p> <p>6 Q. Do you believe that the way that the 7 process worked was that Ms. Voelker would review 8 the report each morning and then turn around and 9 each morning that there is a pharmacy that is 10 exceeding the purchasing thresholds, that she 11 would send an email to the group letting them 12 know?</p> <p>13 MR. KOBRIN: Same objection.</p> <p>14 BY MR. HUDSON:</p> <p>15 Q. As opposed to it being like an automated 16 process where it automatically happened.</p> <p>17 MR. KOBRIN: Same objection.</p> <p>18 THE WITNESS: I believe she ran the 19 report on a daily basis and then would forward it 20 out.</p> <p>21 BY MR. HUDSON:</p> <p>22 Q. If we could, on Exhibit 23 is one of the 23 reports that she sent out to the group; right?</p> <p>24 She indicated there was one pharmacy exceeding the 25 purchase threshold. Then you wrote back and said</p>	<p>1 be done to try to determine whether or not an 2 order was suspicious?</p> <p>3 A. So as we spoke earlier -- and this is 4 actually, I think, a good example of the different 5 levels that we go to to ensure our controlled 6 substance integrity, that whenever there is an 7 order of interest or a flag, that it gets 8 investigated.</p> <p>9 In this case, the pharmacy district leader, 10 Todd Roarhrig, reached out to the pharmacist -- I 11 can't remember Renee -- pharmacy manager, staff 12 pharmacist, to understand why is there -- to 13 understand the purchasing or the orders that the 14 system generated for the store for that, and her 15 response saying that in cough and cold season, 16 seeing an increase in prescriptions from 17 prescribers as the hydrocodone or Hycodan, which 18 is hydrocodone and homatropine, is a cough syrup.</p> <p>19 Q. But this is a hydrocodone combination 20 product; correct?</p> <p>21 A. Correct, hydrocodone and homatropine.</p> <p>22 Q. And this is to store number 8; right?</p> <p>23 A. That is correct.</p> <p>24 Q. And you're asking your pharmacy district 25 manager is this an anomaly or should the order be</p>

<p style="text-align: right;">Page 186</p> <p>1 considered suspicious; right?</p> <p>2 A. That's what I asked.</p> <p>3 MR. KOBRIN: Object to form.</p> <p>4 BY MR. HUDSON:</p> <p>5 Q. He writes back, after contacting the 6 pharmacist, and says that it's cough season. It's 7 really not that much.</p> <p>8 So in your mind, have you been provided with 9 a legitimate or an explanation that in your mind 10 makes it clear that this is a legitimate shipment 11 that should not be deemed suspicious?</p> <p>12 MR. KOBRIN: Object to form.</p> <p>13 THE WITNESS: Renee's response that 14 there's -- they're receiving an increase 15 particularly from or for the cough and cold season 16 for a cough syrup and the timing coincides with 17 cough and cold, I believe is a realistic view of 18 dispensing any prescription for legitimate medical 19 use.</p> <p>20 BY MR. HUDSON:</p> <p>21 Q. Would there be anywhere we could go to 22 look at a log or records of reviews like this that 23 were conducted to see whether, in fact, each 24 shipment that exceeded this threshold was, in 25 fact, reviewed?</p>	<p style="text-align: right;">Page 188</p> <p>1 BY MR. HUDSON:</p> <p>2 Q. Sure. Let's look then, if we could --</p> <p>3 let's just go through Exhibits 10 through 21 and</p> <p>4 see how many times store 8 comes up as exceeding</p> <p>5 the threshold for hydrocodone combination</p> <p>6 products.</p> <p>7 So the first one is October from 2013. Do</p> <p>8 you see on the bottom store 8 --</p> <p>9 A. I do.</p> <p>10 Q. -- is on the list for exceeding the 11 threshold. If we go to the next one from November 12 of 2013, do you see two-thirds of the way down</p> <p>13 store 8 is again on the list for exceeding the 14 threshold?</p> <p>15 A. I see that there, yes.</p> <p>16 Q. If we go to the next one in December of 17 2013, we've again got store 8, more than double 18 exceeding the threshold.</p> <p>19 If we go to the next one from January of 20 2014, we've again got store 8 exceeding the 21 threshold for hydrocodone combination products.</p> <p>22 If we go to the next one in February, they're 23 actually not on the list, right, in February of 24 2014? Store 8 wasn't on the list in February. 25 But we would agree that would still be cough</p>
<p style="text-align: right;">Page 187</p> <p>1 MR. KOBRIN: Object to form.</p> <p>2 THE WITNESS: We talked earlier about 3 the retention of documents, and if not legally 4 required to have it, I can't say that those 5 documents may be retained for a period of time, 6 don't exist. I don't have any access to that.</p> <p>7 BY MR. HUDSON:</p> <p>8 Q. Would you expect there to be an email 9 from Ms. Voelker to this distribution list that 10 exists for each day that there was a pharmacy that 11 exceeds the purchasing threshold?</p> <p>12 A. I believe that Kayla would forward the 13 flagged stores as the report generated them, as 14 she ran the report.</p> <p>15 Q. In a situation here like store 8 where 16 it's being flagged, is there any effort by anyone 17 with HBC to try to figure out whether or not this 18 was an anomaly or, in fact, it was just flu 19 season?</p> <p>20 MR. KOBRIN: Object to form.</p> <p>21 THE WITNESS: Part of the whole 22 distribution control of the medication process 23 that we talked earlier, everything being 24 integrated, this was yet one of those other checks 25 to vet out an order again.</p>	<p style="text-align: right;">Page 189</p> <p>1 season; right?</p> <p>2 MR. KOBRIN: Can I get a standing 3 objection on these to the extent they have 4 transactional data and threshold limits for stores 5 that are outside of Cuyahoga and Summit counties, 6 the jurisdictions in question in this litigation?</p> <p>7 MR. HUDSON: Sure. My questions are 8 going to just in general the SOMS system and its 9 ability to operate.</p> <p>10 BY MR. HUDSON:</p> <p>11 Q. So if we go then to March of 2014 --</p> <p>12 A. Which number?</p> <p>13 Q. Number 15. -- do you see store 8 is 14 back on our list as exceeding the threshold?</p> <p>15 Third from the bottom. It's actually the other 16 one for hydrocodone combination products.</p> <p>17 If we go to April of 2014 and again we go 18 look for store 8, about right in the middle 19 they're on the list again, close to double the 20 threshold for hydrocodone combination products.</p> <p>21 If we look at May of 2014, again we've got 22 store 8 on the list, close to double again.</p> <p>23 If we go to June of 2014, again we've got 24 store 8 exceeding the threshold for hydrocodone 25 combination products.</p>

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<p>1 July of 2014, we've again got store 8. In 2 August of 2014, we've again got store 8 exceeding 3 the threshold for hydrocodone combination 4 products; right?</p> <p>5 A. I see that.</p> <p>6 Q. Then we go to September of 2014, and 7 again the third one down is store 8 exceeding the 8 threshold.</p> <p>9 So at least some of those months were 10 certainly not flu season where there were coughs 11 that were occurring; right?</p> <p>12 In other words, it wasn't a season where you 13 would expect to have an abnormally large number of 14 people who needed cough syrup; is that fair?</p> <p>15 MR. KOBRIN: Object to form.</p> <p>16 THE WITNESS: According to history of 17 the CDC, the months that comprise traditional flu 18 season, is that what you're asking me to comment 19 on?</p> <p>20 BY MR. HUDSON:</p> <p>21 Q. I'm asking you to comment on whether or 22 not you agree that the monitoring system that was 23 in place, the explanation that was provided for 24 exceeding the threshold on this one month would 25 not be an explanation that would work for all the</p>	<p>1 A. Jim Cornwell is a pharmacist and is part 2 of the pharmacy IT group.</p> <p>3 Q. Do you believe him to be a knowledgeable 4 person about pharmacy policies and practices?</p> <p>5 A. I believe Jim to be knowledgeable and a 6 good bagpipe player.</p> <p>7 (HBC-Millward Exhibit 24 was marked.)</p> <p>8 BY MR. HUDSON:</p> <p>9 Q. Let me hand you what I've marked as 10 Exhibit 24.</p> <p>11 MR. HUDSON: Exhibit 24 is internal 12 number is 1027.</p> <p>13 BY MR. HUDSON:</p> <p>14 Q. This is an email from James Cornwell to 15 Philip Raub and Dominic Bertucci on August 23, 16 2016. It's got a couple of attachments here.</p> <p>17 Now, by this time, sir, you've left Giant 18 Eagle; correct?</p> <p>19 A. That is correct.</p> <p>20 Q. And this is Mr. Cornwell writing to 21 Mr. Raub and Mr. Bertucci. He's talking about 22 this suspicious reporting that was put in place by 23 yourself and Mr. Boyton and Ms. Voelker; right?</p> <p>24 A. I'm sorry. Say that again.</p> <p>25 Q. This is an email in which he's writing</p>
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<p>1 other months that we've gone through where the 2 threshold was exceeded; right?</p> <p>3 MR. KOBRIN: Object to form.</p> <p>4 THE WITNESS: So reviewing the 5 documents, the threshold for the store was, I 6 believe, based on an average chain movement, store 7 8 being one of the highest volume stores in the 8 chain and the thresholds not being tailored, not 9 yet sophisticated enough to be tailored to 10 individual stores at that time.</p> <p>11 So it doesn't seem unreasonable that a 12 high -- one of the highest volume stores in the 13 company would have some of the highest volume 14 ordering to fulfill the higher volume legitimate 15 prescriptions.</p> <p>16 BY MR. HUDSON:</p> <p>17 Q. Do you agree that the system that you 18 put in place left big gaping holes in your logic?</p> <p>19 MR. KOBRIN: Object to form.</p> <p>20 THE WITNESS: I would disagree with that 21 statement.</p> <p>22 BY MR. HUDSON:</p> <p>23 Q. Do you know James Cornwell?</p> <p>24 A. I do.</p> <p>25 Q. Who is James Cornwell?</p>	<p>1 about the system that we've been talking about 2 that was created by yourself, Mr. Boyton and 3 Ms. Voelker; right?</p> <p>4 A. According to the text in the email, he's 5 reviewing the SQL. I do see the SQL was written 6 by Kayla.</p> <p>7 Q. And that's consistent with what we've 8 talked about with the process that you put in 9 place; right?</p> <p>10 MR. KOBRIN: Object to form. Assumes 11 facts not in evidence.</p> <p>12 THE WITNESS: Let me review this.</p> <p>13 MR. KOBRIN: It looks to me like we're 14 missing a part of the exhibit. Is that accurate?</p> <p>15 MR. HUDSON: I did my best to put 16 together what we had.</p> <p>17 MR. KOBRIN: It appears that 18 HBC_MDL00086642 is a cover sheet to another 19 attachment in this email. We don't have the cover 20 sheet. It looks like there's two attachments 21 based on the email. I also object that he's never 22 received or seen this email.</p> <p>23 BY MR. HUDSON:</p> <p>24 Q. Have you had a chance to review it, 25 Mr. Millward?</p>

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<p>1 A. Finishing up. Go ahead. Ask your 2 question again. I'm sorry.</p> <p>3 Q. Back to Mr. Cornwell's email, do you 4 agree that he's referring to the system that we've 5 been talking about that was put in place by 6 yourself, Mr. Boyton and Ms. Voelker?</p> <p>7 MR. KOBRIN: Object to form.</p> <p>8 THE WITNESS: While I haven't had a 9 chance to talk to -- obviously, this was, as 10 stated, created after I was with Rite-Aid again or 11 not with Giant Eagle. It appears he's reviewing 12 or he does again say that he's reviewing or does 13 see the SQL as written by Kayla looking at 14 utilizing a monthly average looking back at the 15 last 12 months that had each item ordered based on 16 it GPI(10).</p> <p>17 BY MR. HUDSON:</p> <p>18 Q. That is how your system and the process 19 that you described worked; correct?</p> <p>20 MR. KOBRIN: Object to form.</p> <p>21 THE WITNESS: As previously stated, I 22 didn't know that nitty-gritty SQL piece to be able 23 to say that, but...</p> <p>24 BY MR. HUDSON:</p> <p>25 Q. I'm focused on the requirements for</p>	<p>1 there were problems with the process that you and 2 Ms. Voelker and Mr. Boyton put in place?</p> <p>3 MR. KOBRIN: Object to form.</p> <p>4 THE WITNESS: I have no basis to judge 5 because I don't know to which -- what he 6 interprets -- I have no basis which to judge 7 because I don't know his interpretation.</p> <p>8 BY MR. HUDSON:</p> <p>9 Q. Beyond what you read in his email right 10 here?</p> <p>11 A. Beyond this.</p> <p>12 Q. But you can read his words here in terms 13 of his analysis of the system; right?</p> <p>14 A. I see the email that he wrote and his 15 opinions.</p> <p>16 Q. Is there anything factually that you 17 think is inaccurate about the email that he wrote?</p> <p>18 MR. KOBRIN: Object to form.</p> <p>19 THE WITNESS: I have no basis to dispute 20 what he was reviewing at the time or to his 21 thought process in determining if there were 22 holes.</p> <p>23 BY MR. HUDSON:</p> <p>24 Q. Well, the system that we're talking 25 about, this monitoring process, is something you</p>
<p style="text-align: center;">Page 195</p> <p>1 utilizing a monthly average looking back at the 2 last 12 months that had each item ordered based on 3 the GPI. Is that how your process worked?</p> <p>4 MR. KOBRIN: Object to form. You keep 5 referring to it as his process. I believe that 6 misrepresents the evidence.</p> <p>7 THE WITNESS: Do I believe it represents 8 what was created as far as generated the previous 9 reports?</p> <p>10 BY MR. HUDSON:</p> <p>11 Q. Yes.</p> <p>12 A. It appears to be.</p> <p>13 Q. Then he goes on and writes, "This value 14 was a monthly accumulation that reset the first of 15 each month which mirrored McKesson's system, but 16 left big holes in our logic. If the item showed 17 on the report, George evaluated it. If it was 18 determined it should be blocked, the blocking form 19 was filled out. This form expired at the end of 20 each month, again a problem. I have attached the 21 SQL and the documentation on the blocking form. 22 That form was my main focus on this project."</p> <p>23 Did I read that right?</p> <p>24 A. You read the email correctly.</p> <p>25 Q. Do you disagree with Mr. Cornwell that</p>	<p style="text-align: center;">Page 197</p> <p>1 were involved with from at least October of 2013 2 into 2014; is that fair?</p> <p>3 A. Correct.</p> <p>4 Q. You know how the process worked; right?</p> <p>5 A. High level.</p> <p>6 Q. You know how Mr. Cornwell is describing 7 it here; right?</p> <p>8 MR. KOBRIN: Object to form.</p> <p>9 BY MR. HUDSON:</p> <p>10 Q. And that's what he's doing in this 11 email, is describing the suspicious reporting and 12 blocking process; right?</p> <p>13 MR. KOBRIN: Object to form.</p> <p>14 THE WITNESS: As presented, I see the 15 email you presented me.</p> <p>16 BY MR. HUDSON:</p> <p>17 Q. Is there anything factually in 18 Mr. Cornwell's email that you believe is 19 inaccurate or incomplete?</p> <p>20 MR. KOBRIN: Object to form. No 21 foundation.</p> <p>22 THE WITNESS: Again, I don't -- wasn't 23 there at the time of this project referenced in 24 the last sentence to have any reason to believe up 25 until the time I left it was the -- that there</p>

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<p>1 were any issues beyond.</p> <p>2 BY MR. HUDSON:</p> <p>3 Q. Put to one side whatever project he's</p> <p>4 working on. That part of the email I don't care</p> <p>5 about.</p> <p>6 What I'm focused on is: Can we agree that in</p> <p>7 his email, he describes the process that was in</p> <p>8 place at HBC for monitoring shipments?</p> <p>9 MR. KOBRIN: Object to form. He's</p> <p>10 already said he knew only at a high level.</p> <p>11 THE WITNESS: Again, I don't know how</p> <p>12 the programming worked other than the views of how</p> <p>13 products came in. The actual SQL coding and the</p> <p>14 nuts and bolts of how purchases are pulled or how</p> <p>15 any of that other data is cobbled together and put</p> <p>16 into the spreadsheet -- I know that Kayla put it</p> <p>17 into the spreadsheet and it had an output that you</p> <p>18 provided examples of.</p> <p>19 BY MR. HUDSON:</p> <p>20 Q. So you have no idea what the threshold</p> <p>21 was that was put in place at the company?</p> <p>22 A. Threshold was based on, as I said, a</p> <p>23 factor of the company's average movement.</p> <p>24 Q. So if it exceeded the monthly average,</p> <p>25 looking back at the last 12 months, then it</p>	<p>1 page 2 at the bottom left. Do you see December 5,</p> <p>2 2013?</p> <p>3 MR. KOBRIN: You told him to ignore that</p> <p>4 last sentence related to the blocking form. The</p> <p>5 other document that he's talking about is the</p> <p>6 suspicion reporting attachment which is not</p> <p>7 attached. You've only got a cover sheet.</p> <p>8 Standing objection.</p> <p>9 BY MR. HUDSON:</p> <p>10 Q. Do you agree he's describing the process</p> <p>11 that was in place in 2013?</p> <p>12 A. Yeah, I agree.</p> <p>13 Q. And do you agree that that's how the</p> <p>14 process worked, if an item showed on the report,</p> <p>15 that George within your group evaluated it?</p> <p>16 MR. KOBRIN: Object to form. Asked and</p> <p>17 answered.</p> <p>18 THE WITNESS: Going back to your</p> <p>19 previous Exhibit 23, the distribution list is on</p> <p>20 there as to who received the report.</p> <p>21 BY MR. HUDSON:</p> <p>22 Q. Is it your testimony --</p> <p>23 A. George is one of those names on that</p> <p>24 list along with me.</p> <p>25 Q. Was anyone other than George Chunderlik</p>
<p style="text-align: center;">Page 199</p> <p>1 exceeded the threshold, or was it three times the</p> <p>2 average?</p> <p>3 MR. KOBRIN: Object to form.</p> <p>4 THE WITNESS: If the threshold or when</p> <p>5 the threshold is created, if three times is a</p> <p>6 baseline, again, it's a company average and not</p> <p>7 tailored to an individual's location.</p> <p>8 BY MR. HUDSON:</p> <p>9 Q. Is it your understanding that the value</p> <p>10 was a monthly accumulation that reset the first of</p> <p>11 each month?</p> <p>12 A. That is correct.</p> <p>13 MR. KOBRIN: Object to form.</p> <p>14 BY MR. HUDSON:</p> <p>15 Q. Do you agree that if an item showed on</p> <p>16 the report, then George evaluated it?</p> <p>17 A. I can't answer that, what George did as</p> <p>18 of August 2016, because I wasn't there.</p> <p>19 Q. Sir, he's talking about -- do you see</p> <p>20 the attachments? He's talking about the process</p> <p>21 that Kayla put in place back in 2013; right?</p> <p>22 MR. KOBRIN: Object to form. It appears</p> <p>23 to me that you're referring to the very document</p> <p>24 that we're missing here because it's not --</p> <p>25 MR. HUDSON: Look at page 2. Look at</p>	<p style="text-align: center;">Page 201</p> <p>1 tasked with evaluating pharmacies that showed up</p> <p>2 on the report?</p> <p>3 MR. KOBRIN: Time period?</p> <p>4 THE WITNESS: Yeah, specify your time</p> <p>5 period, please.</p> <p>6 BY MR. HUDSON:</p> <p>7 Q. During any time that this process was in</p> <p>8 place.</p> <p>9 A. So the exhibit is an example of where I</p> <p>10 forwarded out or I reached out to the PDL to look</p> <p>11 into store 8.</p> <p>12 Q. We've got you and George Chunderlik. Is</p> <p>13 there anyone else who was involved in the process</p> <p>14 of evaluating pharmacies who popped up on this</p> <p>15 report?</p> <p>16 A. The pharmacy district leaders as they</p> <p>17 were identified for their individual stores, phone</p> <p>18 calls to individual pharmacies, store visits by</p> <p>19 the PDL, by me.</p> <p>20 Q. Those were people -- what I'm talking</p> <p>21 about is taking pharmacies that pop up on this</p> <p>22 list, the nuts and bolts of how that worked</p> <p>23 between October of 2013 and whenever that process</p> <p>24 ended.</p> <p>25 When a pharmacy popped up on that list, who</p>

<p style="text-align: right;">Page 202</p> <p>1 were the people at Giant Eagle or HBC who went and 2 investigated?</p> <p>3 MR. KOBRIN: Object to form.</p> <p>4 BY MR. HUDSON:</p> <p>5 Q. You said you, and we've seen that in the 6 emails. Then you said George Chunderlik; right?</p> <p>7 A. Um-hum.</p> <p>8 Q. Anyone else?</p> <p>9 A. And I've said the pharmacy district 10 leaders that were overseeing those individual 11 districts. So in the exhibit, Todd Roarhig as 12 you've identified.</p> <p>13 Q. But you reached out to him though; 14 right?</p> <p>15 A. Correct.</p> <p>16 Q. So the pharmacy district leaders were 17 not on the distribution list that was being 18 generated at corporate; correct?</p> <p>19 A. That is correct, but that wasn't your 20 question.</p> <p>21 Q. My question is -- I'm saying once this 22 report is generated, who is it within Giant Eagle 23 or HBC that's tasked with going and investigating 24 the specific pharmacies that are on that list?</p> <p>25 So far you've listed yourself and George</p>	<p style="text-align: right;">Page 204</p> <p>1 there would be a daily threshold report that was 2 generated; correct?</p> <p>3 A. As established.</p> <p>4 Q. And you've indicated that Kayla would 5 review that every day, and then Kayla would send 6 an email out to the group of people. We've seen 7 two of those that I think are Exhibits 22 and 23; 8 right?</p> <p>9 A. That is correct.</p> <p>10 Q. So my question is: Then at that step in 11 the process, was it you or George Chunderlik that 12 would then go and investigate the pharmacies that 13 were popping up on the list?</p> <p>14 MR. KOBRIN: Object to form.</p> <p>15 THE WITNESS: We would leverage the 16 pharmacy district leader to go into his or her 17 store to investigate and to find out what's going 18 on. We've also gone to -- I've done site visits 19 as well in conjunction with the PDL.</p> <p>20 BY MR. HUDSON:</p> <p>21 Q. Other than yourself and Mr. Chunderlik, 22 was there anyone else who was involved in 23 contacting the PDLs or others in the organization 24 to try to investigate those pharmacies that popped 25 up on the threshold list?</p>
<p style="text-align: right;">Page 203</p> <p>1 Chunderlik. Is there anyone else who was 2 involved? I understand that as part of that 3 investigation, you or George may be calling other 4 people in the organization. I'm trying to get an 5 understanding of the investigation, how that 6 occurred and who was involved, of the specific 7 pharmacies that popped up on the list.</p> <p>8 MR. KOBRIN: Object to form.</p> <p>9 THE WITNESS: The pharmacies that popped 10 up on the list would be -- I would reach out to 11 the pharmacy district leader that had that store 12 say, I need you to investigate this. I need you 13 to check and see, as an example, if it's an 14 anomaly or if there's something more.</p> <p>15 BY MR. HUDSON:</p> <p>16 Q. Did anyone other than you and George 17 Chunderlik take on that role?</p> <p>18 MR. KOBRIN: Do you mean among 19 recipients of the email, Ty, or do you mean -- I'm 20 confused.</p> <p>21 THE WITNESS: Was anybody else -- 22 rephrase your question. I'm not going to assume 23 your question.</p> <p>24 BY MR. HUDSON:</p> <p>25 Q. At corporate you created a system where</p>	<p style="text-align: right;">Page 205</p> <p>1 A. Anybody who received the report could 2 reach out. Nothing precluded those individuals 3 from doing so.</p> <p>4 Q. Was there a process in place? How did 5 you decide who did what?</p> <p>6 A. The process would be either George or I 7 would reach out to that pharmacy district leader 8 to contact, contact either by phone, email or 9 physical on-site visit.</p> <p>10 Q. Then as a result of that review or 11 investigation, if there was reason to believe that 12 the order was not legitimate, then you would 13 report that to the DEA and stop the shipment?</p> <p>14 A. So based on their -- so the PDL is -- 15 the report triggers the PDL's review of the store. 16 Report is forwarded down. Ultimately, they're the 17 one going in or having that discussion.</p> <p>18 And then if the movement is deemed as -- so 19 if the movement is deemed as suspicious in the 20 case of a store where we had a change in 21 prescribing pattern, then shipments to the store 22 would be deemed suspicious, stopped and reported 23 to the DEA.</p> <p>24 Q. In your time at Giant Eagle, there were 25 only two times that reports were made to the DEA;</p>

<p style="text-align: right;">Page 206</p> <p>1 correct?</p> <p>2 A. That's correct.</p> <p>3 Q. So in your time at Giant Eagle, you're</p> <p>4 aware of only two suspicious orders that existed</p> <p>5 of shipments from HBC to Giant Eagle; correct?</p> <p>6 A. There were two occasions when the</p> <p>7 movement, in this case not theft, but an unusual</p> <p>8 prescribing pattern of buprenorphine products were</p> <p>9 flagged or stopped, reported. The store was --</p> <p>10 shipments to the store for that chemical were</p> <p>11 halted and the -- which then the team interviewed,</p> <p>12 retrained on the controlled substance dispensing</p> <p>13 guidelines, the guidelines in the pharmacist</p> <p>14 manual from the DEA, as far as understanding and</p> <p>15 catching red flags, dispensing red flags, in this</p> <p>16 case, prescriptions from a set of -- subset of</p> <p>17 prescribers.</p> <p>18 Q. I guess what I was getting at is all</p> <p>19 suspicious orders from Giant Eagle -- I'm sorry --</p> <p>20 from HBC to Giant Eagle were reported to the DEA;</p> <p>21 correct?</p> <p>22 MR. KOBRIN: Object to form.</p> <p>23 THE WITNESS: The two suspicious orders</p> <p>24 identified were reported to the DEA.</p> <p>25</p>	<p style="text-align: right;">Page 208</p> <p>1 bottom you see it's dated December 5, 2013.</p> <p>2 A. Yes. I see that on that document.</p> <p>3 Q. And at least Mr. Cornwell's email -- let</p> <p>4 me put that differently.</p> <p>5 This is one of the items that's attached to</p> <p>6 or the document that's attached to Mr. Cornwell's</p> <p>7 email; correct?</p> <p>8 MR. KOBRIN: Object to form. He didn't</p> <p>9 receive this email.</p> <p>10 MR. HUDSON: I understand.</p> <p>11 THE WITNESS: I didn't receive it from</p> <p>12 Jim, the attachments.</p> <p>13 BY MR. HUDSON:</p> <p>14 Q. I understand. But have you in your time</p> <p>15 at Giant Eagle received emails with attachments</p> <p>16 before?</p> <p>17 A. I have.</p> <p>18 Q. Can you take the second page and compare</p> <p>19 it to the description on the attachment? Do you</p> <p>20 see that it's referring to a suspicious -- excuse</p> <p>21 me -- an order item blocking and then it says 5</p> <p>22 December 13. Then if you look on the second page</p> <p>23 of the document at the bottom, it's also dated</p> <p>24 December 5, 2013.</p> <p>25 A. I see that.</p>
<p style="text-align: right;">Page 207</p> <p>1 BY MR. HUDSON:</p> <p>2 Q. And to your knowledge, at least while</p> <p>3 you were the senior manager of compliance at Giant</p> <p>4 Eagle, you are not aware of any other suspicious</p> <p>5 orders of controlled substances that were shipped</p> <p>6 from HBC to Giant Eagle and not reported to the</p> <p>7 DEA; correct?</p> <p>8 A. The two orders that were determined or</p> <p>9 the movement that was determined to be suspicious</p> <p>10 were reported.</p> <p>11 Q. I appreciate that. You've said that a</p> <p>12 couple of times. My question is a little bit</p> <p>13 different.</p> <p>14 My question is: During the time that you</p> <p>15 were the senior manager of compliance at Giant</p> <p>16 Eagle, you are not aware of any suspicious orders</p> <p>17 from HBC to Giant Eagle retail pharmacies that</p> <p>18 were not reported to the DEA; correct?</p> <p>19 A. No orders deemed suspicious -- it's a</p> <p>20 double negative now. All orders identified as</p> <p>21 suspicious were reported.</p> <p>22 Q. If we could go back to page 2 of</p> <p>23 Mr. Cornwell's email, it's the attachment, which</p> <p>24 is Exhibit 24, you see at the top it says</p> <p>25 Suspicious Drug Monitor Blocking, and then at the</p>	<p style="text-align: right;">Page 209</p> <p>1 Q. Now, my question -- because you were in</p> <p>2 compliance at this time, in December of 2013;</p> <p>3 correct?</p> <p>4 A. Correct.</p> <p>5 Q. Was this suspicious drug monitor</p> <p>6 blocking document ever implemented as a policy, if</p> <p>7 you know?</p> <p>8 A. So this document, as I read it, talks</p> <p>9 about the technical system changes that need to be</p> <p>10 made as far as the inventory system. Things that</p> <p>11 are referenced in there were more IS or IT</p> <p>12 related. And reviewing this, it appears to be an</p> <p>13 internal IT or pharmacy IT how-to.</p> <p>14 Q. Do you know if you've ever seen this</p> <p>15 document?</p> <p>16 A. I can't recall seeing it. It appears to</p> <p>17 be an IT-specific document.</p> <p>18 Q. Do you know whether this policy was ever</p> <p>19 implemented?</p> <p>20 MR. KOBRIN: Object to form. He already</p> <p>21 said he hasn't seen it.</p> <p>22 THE WITNESS: I don't necessarily agree</p> <p>23 with the characterization as a policy for this.</p> <p>24 Based on reading it as presented here, it looks</p> <p>25 more like a how-to job aid. But that's only my</p>

<p style="text-align: right;">Page 210</p> <p>1 interpretation of having seen this document 2 presented today. 3 BY MR. HUDSON: 4 Q. Do you know whether or not HBC or Giant 5 Eagle took any of the actions that are set out in 6 this document? 7 A. So two orders we had -- again, the two 8 orders are two orders that were deemed or the two 9 situations where there was suspicious movement and 10 reported. How the nuts and bolts of how they 11 stopped the order, I wasn't necessarily privy to. 12 As far as the system changes that had to go and 13 the files which were created, I don't -- that 14 was -- I asked them to stop based off. They did 15 their job. 16 Q. You believe that HBC had the capability 17 to stop the shipment of orders? 18 A. Again, as part of the integrated piece, 19 okay, that the ordering system as part of our 20 overall system of monitoring and following drug 21 movement from purchasing to end user dispensing, 22 the ability to block would be through pharmacy IS 23 to facilitate that. They had systems access. 24 Q. As you sit here today, the two shipments 25 that you reported to the DEA, you know that those</p>	<p style="text-align: right;">Page 212</p> <p>1 RX distribution center? 2 MR. KOBRIN: Object to form. Vague. 3 THE WITNESS: Can you be more specific, 4 please, or restate the question? 5 BY MR. HUDSON: 6 Q. At a certain point, did you become 7 involved with taking steps to make sure that the 8 new Giant Eagle RX distribution center was 9 complying with the Controlled Substances Act? 10 A. As part of the VAWD certification 11 process, policies and procedures were reviewed. 12 And because it was a new distribution center with 13 a new physical layout and the business plan called 14 for a vault, policies and procedures had to be 15 created for the facility. 16 Q. And you were involved in that process; 17 right? 18 A. Yes. 19 Q. Let me hand you what I marked as 20 Exhibit 25. 21 (HBC-Millward Exhibit 25 was marked.) 22 MR. HUDSON: Exhibit 25, the internal 23 number is 1005. 24 BY MR. HUDSON: 25 Q. I'm going to focus mainly on this first</p>
<p style="text-align: right;">Page 211</p> <p>1 shipments were stopped? 2 A. Yes. 3 MR. KOBRIN: Object to form. 4 BY MR. HUDSON: 5 Q. So during your time at Giant Eagle, to 6 the best of your recollection, you believe that 7 HBC or Giant Eagle had the capability to stop 8 shipments? 9 MR. KOBRIN: Object to form. 10 THE WITNESS: And did stop shipments on 11 two occasions and reported as required. 12 BY MR. HUDSON: 13 Q. And do you agree if those shipments were 14 not stopped, that that would be a violation of the 15 Act? 16 MR. KOBRIN: Object to form. 17 THE WITNESS: That's speculation. 18 MR. KOBRIN: Calls for a legal 19 conclusion. 20 BY MR. HUDSON: 21 Q. Let me shift gears and just talk, if I 22 could, about efforts that were undertaken in 2015. 23 At some point, did you begin to try to analyze 24 putting controls in place for the new distribution 25 facility that was going to open, the Giant Eagle</p>	<p style="text-align: right;">Page 213</p> <p>1 page. You see the bottom email is an email from 2 you to a distribution list with the subject matter 3 Thrifty White Notes. 4 A. I'm just reviewing the whole document if 5 you can afford me a second. Go ahead. Ask. 6 Q. Do you see there the second email is an 7 email from you to a distribution list, dated 8 August 20, 2015, with the subject Thrifty White 9 Notes? 10 A. Yes, I see that. 11 Q. And did you take notes during a visit to 12 Thrifty White? 13 A. Yes. 14 Q. And what is Thrifty White? 15 A. Thrifty White is a pharmacy, regional 16 pharmacy chain in northern states, north central. 17 Q. Why did you visit Thrifty White? 18 MR. KOBRIN: Object to form. Assumes 19 facts not in evidence. 20 THE WITNESS: Thrifty White was one of 21 the share group partners and had invited -- had 22 implemented, either implemented already or were in 23 the process of implementing a -- they did self 24 distribute, but implementing a vault to house 25 Schedule IIs that they would be able to self</p>

<p style="text-align: right;">Page 214</p> <p>1 distribute.</p> <p>2 BY MR. HUDSON:</p> <p>3 Q. And did you personally visit Thrifty</p> <p>4 White?</p> <p>5 A. I did.</p> <p>6 Q. And who else visited Thrifty White?</p> <p>7 A. Bob McClune, Phil Raub. I'm trying to</p> <p>8 remember if Walt was there. I apologize. I don't</p> <p>9 remember if he was there or not.</p> <p>10 Q. Down below in this email, these are your</p> <p>11 notes from that visit?</p> <p>12 A. Yes.</p> <p>13 Q. Your number one note is, "Keep engaged</p> <p>14 with the DEA through all steps of the process."</p> <p>15 A. Yes.</p> <p>16 Q. Was that something new that you learned</p> <p>17 during that visit to Thrifty White or something</p> <p>18 that you already knew?</p> <p>19 A. As it says, keep engaged. So we had</p> <p>20 a -- Giant Eagle had what I believe a very</p> <p>21 positive relationship with the DEA agents out of</p> <p>22 the resident office, and the goal to keep</p> <p>23 engagement with them all the way through the</p> <p>24 process for their advice and suggestions, guidance</p> <p>25 as to entering into the Schedule II as they would</p>	<p style="text-align: right;">Page 216</p> <p>1 Q. So did HBC have a process to review the</p> <p>2 orders before they are filled by the distribution</p> <p>3 center?</p> <p>4 MR. KOBRIN: Object to form. Asked and</p> <p>5 answered.</p> <p>6 MR. HUDSON: Then I'll move to strike</p> <p>7 his two previous answers as nonresponsive.</p> <p>8 BY MR. HUDSON:</p> <p>9 Q. My question is very simple. Did HBC</p> <p>10 have a process to review orders before they were</p> <p>11 filled by the distribution center?</p> <p>12 MR. KOBRIN: Object to form.</p> <p>13 THE WITNESS: Giant Eagle had a system</p> <p>14 to disclose suspicious orders and to review</p> <p>15 purchases.</p> <p>16 BY MR. HUDSON:</p> <p>17 Q. Before they were filled by the</p> <p>18 distribution center or after?</p> <p>19 A. As they were --</p> <p>20 MR. KOBRIN: Object to form.</p> <p>21 THE WITNESS: For which schedules?</p> <p>22 BY MR. HUDSON:</p> <p>23 Q. That's the regulation itself. My</p> <p>24 question is about HBC.</p> <p>25 Did HBC have a process to review orders</p>
<p style="text-align: right;">Page 215</p> <p>1 be responsible for the site reviews.</p> <p>2 Q. Number two, "It is critical to have a</p> <p>3 robust suspicious order monitoring program." You</p> <p>4 put in quotes, Relying on the thresholds is not</p> <p>5 good enough for the DEA, end quotes. "How would</p> <p>6 you identify a store that has an unusually large</p> <p>7 order that does not push it over the threshold?</p> <p>8 They have a process to review the orders before</p> <p>9 they're filled by the DC."</p> <p>10 Does that mean distribution center?</p> <p>11 MR. KOBRIN: Object to form.</p> <p>12 THE WITNESS: I believe so.</p> <p>13 BY MR. HUDSON:</p> <p>14 Q. At this time, HBC did not have a process</p> <p>15 to review orders before they were filled by the</p> <p>16 distribution center; correct?</p> <p>17 A. HBC had a process to disclose to the</p> <p>18 registrants suspicious orders of controlled</p> <p>19 substances.</p> <p>20 Q. Did HBC have a process to review orders</p> <p>21 before they are filled by the distribution center?</p> <p>22 A. Again, HBC had a -- as part of the</p> <p>23 integrated approach that we had at all levels of</p> <p>24 the store, the pharmacy and corporate and HBC, to</p> <p>25 disclose suspicious orders or movement.</p>	<p style="text-align: right;">Page 217</p> <p>1 before they were filled by the distribution</p> <p>2 center?</p> <p>3 MR. KOBRIN: Object to form.</p> <p>4 THE WITNESS: Giant Eagle as part of the</p> <p>5 overall levels of controls at the store, at the</p> <p>6 distribution center, even to the team members</p> <p>7 picking the orders, to be able to see or to</p> <p>8 identify flags to be investigated.</p> <p>9 BY MR. HUDSON:</p> <p>10 Q. So the review for flags would happen</p> <p>11 before the orders were filled by the distribution</p> <p>12 center?</p> <p>13 MR. KOBRIN: Object to form.</p> <p>14 THE WITNESS: Which orders?</p> <p>15 BY MR. HUDSON:</p> <p>16 Q. Orders of controlled substances.</p> <p>17 A. Again, part of the process would be the</p> <p>18 orders would come in. We talked previously that</p> <p>19 when they would flag to be determined if they</p> <p>20 were -- if the order pattern was out of line for</p> <p>21 the store or the threshold, I'll put it that way,</p> <p>22 flag on the threshold report that the PDLs would</p> <p>23 be directed to investigate.</p> <p>24 With CSOS, the controlled substance ordering</p> <p>25 system, the orders were reviewed before they were</p>

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<p>1 sent for filling.</p> <p>2 Q. And when did CSOS come into effect?</p> <p>3 A. That's a good question. I don't</p> <p>4 remember the date.</p> <p>5 Q. Is it C-S-O-S?</p> <p>6 A. Yeah.</p> <p>7 Q. That came into effect after</p> <p>8 October 2014; right? Or was it some point in</p> <p>9 2015?</p> <p>10 A. I don't remember the date. I'd have to</p> <p>11 be refreshed.</p> <p>12 (HBC-Millward Exhibit 26 was marked.)</p> <p>13 BY MR. HUDSON:</p> <p>14 Q. I'll hand you, sir, what I'm marking as</p> <p>15 Exhibit 26. Is this the CSOS program that you're</p> <p>16 referring to?</p> <p>17 A. Sorry. I'm taking a second to review</p> <p>18 it. It appears to be the CSOS, CSOS walk through</p> <p>19 and trouble-shooting document.</p> <p>20 Q. And this is coming online in late 2015;</p> <p>21 right?</p> <p>22 MR. KOBIN: Object to form.</p> <p>23 THE WITNESS: Either late 2015 or</p> <p>24 early -- the date on the email is November of '15.</p> <p>25 So it certainly would not have been before that.</p>	<p>1 review orders before they were filled by the</p> <p>2 distribution center?</p> <p>3 MR. KOBIN: Object to form. Asked and</p> <p>4 answered numerous times.</p> <p>5 THE WITNESS: As we discussed earlier on</p> <p>6 the threshold reports, on the two occasions where</p> <p>7 an order was deemed suspicious or movement was</p> <p>8 suspicious, orders were stopped and withheld from</p> <p>9 the store.</p> <p>10 BY MR. HUDSON:</p> <p>11 Q. So on those two occasions, there was a</p> <p>12 review that occurred; right? We've looked at</p> <p>13 that. Your testimony is it was stopped. The</p> <p>14 order was stopped before it was filled at the</p> <p>15 distribution center?</p> <p>16 MR. KOBIN: Object to form.</p> <p>17 Misrepresents the evidence.</p> <p>18 THE WITNESS: The orders for</p> <p>19 buprenorphine for those stores were blocked.</p> <p>20 BY MR. HUDSON:</p> <p>21 Q. Before they were filled at the</p> <p>22 distribution center?</p> <p>23 A. Correct. If they were blocked, they</p> <p>24 could not have been filled.</p> <p>25 MR. KOBIN: Do you want to take a</p>
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<p>1 So late to early.</p> <p>2 BY MR. HUDSON:</p> <p>3 Q. Going back though to -- if we could go</p> <p>4 back to Exhibit 25, prior to the CSOS system, my</p> <p>5 question is: Did HBC have a process to review</p> <p>6 orders before they were filled by the distribution</p> <p>7 center?</p> <p>8 MR. KOBIN: Object to form.</p> <p>9 THE WITNESS: I don't believe it was</p> <p>10 required.</p> <p>11 BY MR. HUDSON:</p> <p>12 Q. My question is: Did the HBC facility</p> <p>13 have a process to review orders before they were</p> <p>14 filled by the distribution center?</p> <p>15 MR. KOBIN: Object to form.</p> <p>16 THE WITNESS: Did the company review</p> <p>17 orders? Again, integrated. I don't think there</p> <p>18 was an obligation to other than to have a system</p> <p>19 to disclose suspicious orders.</p> <p>20 BY MR. HUDSON:</p> <p>21 Q. So since --</p> <p>22 A. That could be -- I don't want to</p> <p>23 speculate.</p> <p>24 Q. In your mind, if it wasn't required,</p> <p>25 then did Giant Eagle or HBC not have a process to</p>	<p>1 break?</p> <p>2 THE WITNESS: Yeah. We can take a</p> <p>3 break.</p> <p>4 MR. KOBIN: Time to take a break?</p> <p>5 MR. HUDSON: Yeah. Can we make it short</p> <p>6 though? Let's go off the record.</p> <p>7 THE VIDEOGRAPHER: 4:06. We're off the</p> <p>8 video record.</p> <p>9 (Recess from 4:06 p.m. to 4:21 p.m.)</p> <p>10 THE VIDEOGRAPHER: 4:21. We're on the</p> <p>11 video record.</p> <p>12 (HBC-Millward Exhibit 27 was marked.)</p> <p>13 BY MR. HUDSON:</p> <p>14 Q. Mr. Millward, before the break, we were</p> <p>15 talking about notes from a visit that you made to</p> <p>16 Thrifty White. I want to now shift gears and hand</p> <p>17 you a new exhibit. I believe this talks about</p> <p>18 this conversation that you had with Purdue.</p> <p>19 I handed you what's been marked as</p> <p>20 Exhibit 27, which has an internal reference number</p> <p>21 of 6014.</p> <p>22 Do you see on the front it's an email from</p> <p>23 you to George Chunderlik and Adam Zakin with a</p> <p>24 copy to Robert McClune?</p> <p>25 A. I see that.</p>

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<p>1 Q. Then there's an attachment, Notes for 2 Purdue Order Monitoring System. 3 A. Docx, yeah. 4 Q. If we look on the next page, are those 5 your notes? 6 A. These, as I'm reviewing them, having not 7 seen them for a while, a long time, appear to 8 be -- are they Giselle's notes? 9 Q. Go back to the front. It says, 10 "Attached are the notes from the Purdue SOM call." 11 A. And the document Notes for the Purdue 12 Order Monitoring System as the attachment? 13 (HBC-Millward Exhibit 28 was marked.) 14 BY MR. HUDSON: 15 Q. Let me give you one more here. I'm 16 going to mark as Exhibit 28 -- it's actually three 17 separate documents, but I'm going to combine them 18 to mark it as one exhibit because they're 19 consecutively Bates numbered, and I believe 20 they're the two attachments to the email. I'm 21 going to hand these to you. That's been marked as 22 Exhibit 28. 23 (Witness reviewed the exhibit.) 24 BY MR. HUDSON: 25 Q. You'll see there that the email from you</p>	<p>1 Q. It says look at percentage of controlled 2 substances of total; right? 3 A. That's what it says; correct. 4 Q. Percentage of cash? 5 A. Yes. 6 Q. Percentage of target chemical of total 7 and of controls, and then percentage of cash, 8 percentage of high value GPIs, and then percentage 9 of cash, and percentage of opiate, benzo -- 10 A. Potentiator. 11 Q. -- co-administration. So those 12 were -- were those red flags to look at when 13 monitoring orders? 14 MR. KOBRIN: Object to form. 15 THE WITNESS: So this is a very good 16 example of reaching out to partners in industry to 17 continue to evolve Giant Eagle's processes. In 18 this case, these were things suggested that Purdue 19 looks at and recommendations and suggestions for 20 ways to parse data further beyond what we may have 21 been using at that particular time. 22 BY MR. HUDSON: 23 Q. So at this particular point in time, in 24 November of 2015, those were not indicators or 25 items that you were looking at, correct, at Giant</p>
<p style="text-align: center;">Page 223</p> <p>1 in Exhibit 28 has got two attachments, and the two 2 documents behind them are the next two 3 Bates-labeled documents in the production. So 4 I'll give you a chance to take a look at those. 5 A. Okay. 6 Q. Have you had a chance to review 7 Exhibits 27 and 28? 8 A. I have. 9 Q. Does that refresh your recollection 10 about discussions you were having with Purdue 11 about their suspicious order monitoring system? 12 A. To circle back, if I may, to the 13 previous question about -- sorry -- Exhibit 27 -- 14 Q. Yes. 15 A. -- I do believe that these are the notes 16 from Purdue because as they -- as it references, 17 Kate can help with training -- that would be seven 18 lines essentially from the bottom -- as a Purdue 19 employee. So I believe that was Purdue's 20 information to us ahead of the conference call. 21 Q. So then let's start, if we could, with 22 Exhibit 27 and look at those notes for the Purdue 23 order monitoring system call. Do you see that at 24 the top it says that? 25 A. I do.</p>	<p style="text-align: center;">Page 225</p> <p>1 Eagle or HBC? 2 MR. KOBRIN: Object to form. 3 THE WITNESS: Restate it. I'm sorry. I 4 was reading the attachment. 5 BY MR. HUDSON: 6 Q. Up on the screen there, what we read 7 off, percentage of controlled substances, percent 8 of cash, percentage of targeted chemical, that 9 list is not something that HBC was looking at at 10 the time, as of November of 2015; correct? 11 A. Those were suggestions from Purdue as to 12 things that they recommend looking at. 13 Q. And as far as you were aware at the 14 time, that would be an upgrade to your system at 15 HBC because that wasn't something that you were 16 currently looking at; correct? 17 A. Again, reaching out to partners in the 18 industry to develop what should be best practices 19 and to continue to evolve the processes, continued 20 evolution of the controls. 21 Q. And at least from Purdue's point of 22 view, what they're reflecting here is looking at 23 those items was something that they recommend that 24 you do; right? 25 A. Based on her communication, sending that</p>

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<p>1 over and talking and discussing it on the 2 conference call, those are things that Purdue had 3 as a recommendation.</p> <p>4 Q. If we go to Exhibit 28, this is an email 5 from you to a distribution list, and again, it's 6 talking about -- you're providing a recap, right, 7 of your call with Purdue?</p> <p>8 You wrote, "On Friday, George and I 9 participated in a conference call with Purdue 10 Pharma, maker of top shelf controlled substances 11 such as Oxycontin and Hysingla ER, to discuss 12 their SOM process. In addition to thresholds, 13 they purchase IMS data and look at the percentages 14 of their meds as part of all Rxs filled and the 15 percentage that were filled as cash as opposed to 16 third parties."</p> <p>17 Then you wrote, "Kayla had created a similar 18 report a couple of years ago. I would like to 19 incorporate something similar into our SOM and 20 controlled substances monitoring processes. I've 21 attached two similar spreadsheets. You can change 22 the quarter from Q1 to Q2 to see the data. 23 Unfortunately, that is the limit of the data 24 incorporated into the workbook. I think something 25 like that would fit well into a BI tool." Right?</p>	<p>1 A. That's okay. That's fine. I don't -- I 2 don't recall if they had been put into production 3 or not.</p> <p>4 (HBC-Millward Exhibit 29 was marked.)</p> <p>5 BY MR. HUDSON:</p> <p>6 Q. I'm going to move to a different topic 7 here and hand you what I'm going to mark as 8 Exhibit 29.</p> <p>9 From time to time, were you asked by 10 manufacturers to fill out questionnaires relating 11 to your programs, your suspicious order monitoring 12 programs?</p> <p>13 A. So the email chain appears to initiate 14 from one of the manufacturers, Amneal, with a 15 questionnaire that was sent to Giant Eagle RX 16 distribution center.</p> <p>17 Q. And it looks like Mr. Chunderlik filled 18 out the questionnaire, but he wanted you to take a 19 look at it before he sent it back; right?</p> <p>20 A. His email to me reads, "Erin Hart asked 21 me to fill out this Amneal DEA questionnaire. I 22 filled it out. However, I want you to review also 23 before I send it back to Erin."</p> <p>24 Q. And do you recall whether you did, in 25 fact, review the questionnaire?</p>
<p style="text-align: center;">Page 227</p> <p>1 MR. KOBIN: Object to form.</p> <p>2 BY MR. HUDSON:</p> <p>3 Q. Or fit well within a BI tool; correct?</p> <p>4 A. That's what it says.</p> <p>5 Q. And those comments you made back in 6 November of '15, do those accurately reflect that 7 call that occurred with Purdue Pharma?</p> <p>8 A. I believe if you go down the next 9 section in that exhibit, where it continues on the 10 breakdown description, those are -- those are my 11 thoughts or incorporating -- looking to 12 incorporate some of the suggestions or 13 recommendations from an industry partner.</p> <p>14 Q. And your email reflects that those were 15 not things that you were currently doing at HBC; 16 correct?</p> <p>17 MR. KOBIN: Object to form.</p> <p>18 THE WITNESS: At the time of the email, 19 that would be correct.</p> <p>20 BY MR. HUDSON:</p> <p>21 Q. Prior to leaving HBC in March of 2016, 22 do you know if any of those processes were 23 incorporated?</p> <p>24 A. Leaving Giant Eagle?</p> <p>25 Q. Giant Eagle. I'm sorry.</p>	<p style="text-align: center;">Page 229</p> <p>1 A. While I don't recall specifically 2 reading it at that time, I would have responded to 3 George.</p> <p>4 Q. If you look at question No. 15 of this 5 questionnaire, they're asking you to describe your 6 suspicious order monitoring system. Do you see 7 that?</p> <p>8 A. I see the question.</p> <p>9 Q. And do you see the second sentence, "The 10 order monitoring system (OMS) uses algorithms to 11 identify controlled substance orders that requires 12 investigation and documentation before releasing 13 the order for distribution. The OMS generates 14 flags based on monthly thresholds and 15 characteristics specific to: Pharmacy location, 16 chemical, generic product indicator (GPI), 17 National Drug Code (NDC) and week of the month."</p> <p>18 Did I read that correctly?</p> <p>19 A. You read it correctly.</p> <p>20 Q. Was that a truthful description of the 21 SOM program that existed at the time in December 22 of 2015?</p> <p>23 MR. KOBIN: Object to form.</p> <p>24 THE WITNESS: I believe that was 25 accurate at the time it was written.</p>

<p style="text-align: right;">Page 230</p> <p>1 BY MR. HUDSON:</p> <p>2 Q. So in December of 2015, to the best of 3 your recollection, HBC had an order monitoring 4 system that used algorithms to identify controlled 5 substance orders that required investigation and 6 documentation before releasing the order for 7 distribution?</p> <p>8 MR. KOBRIN: Object to form.</p> <p>9 THE WITNESS: Well, this is for Giant 10 Eagle RX distribution center.</p> <p>11 BY MR. HUDSON:</p> <p>12 Q. So it's your belief that that was a 13 system that was going to be in place at Giant 14 Eagle RX distribution center?</p> <p>15 MR. KOBRIN: Object to form.</p> <p>16 THE WITNESS: Yeah, I believe that to be 17 accurate.</p> <p>18 (HBC-Millward Exhibits 30 - 31 were marked.)</p> <p>19 BY MR. HUDSON:</p> <p>20 Q. I want to switch topics again and talk 21 just briefly about your efforts to create written 22 policies. I'm going to hand you two exhibits. 23 Mark these as Exhibit 30 and 31.</p> <p>24 MR. HUDSON: The internal numbers are 25 5029 and 5030.</p>	<p style="text-align: right;">Page 232</p> <p>1 the -- my thoughts as to and subsequently with 2 George's input of how it would flow.</p> <p>3 BY MR. HUDSON:</p> <p>4 Q. Right. And your email in Exhibit 31 5 that starts out Team, it says, "Team, attached is 6 the latest draft of the SOM procedure for the 7 Giant Eagle order monitoring system policy"; 8 right?</p> <p>9 A. Correct. That's what it says.</p> <p>10 Q. Was that the SOMS policies and 11 procedures for the new Giant Eagle RX distribution 12 center?</p> <p>13 A. So this was the latest draft of those 14 procedures seeking input from the other 15 stakeholders. The first was to Adam Zakin and 16 George Chunderlik, and then the second was 17 expanding it out to seek feedback from Bob 18 McClune, Greg Carlson, Jason Mullen, Christy Hart, 19 Rick Shaheen, Jess Boyd, Justin Daugherty and Nick 20 Garrett.</p> <p>21 Q. I guess what I'm asking is: Were you 22 the primary drafter, initial drafter of these 23 policies?</p> <p>24 A. I believe George and I worked 25 collaboratively, but my type.</p>
<p style="text-align: right;">Page 231</p> <p>1 THE WITNESS: Thank you. 2 (Witness reviewed the exhibit.)</p> <p>3 BY MR. HUDSON:</p> <p>4 Q. Can you just tell me the two exhibit 5 numbers of the two documents?</p> <p>6 A. 30 and 31.</p> <p>7 Q. Thank you. Are Exhibits 30 and 31 two 8 emails attaching different drafts of some 9 procedures that you were -- policies and 10 procedures that you were putting together for the 11 new distribution facility?</p> <p>12 A. May I just have a second to review 13 through, please?</p> <p>14 Q. Of course.</p> <p>15 A. Thank you. Okay. They do appear to be 16 drafts.</p> <p>17 Q. Does this indicate that you were the one 18 at this time, in December of 2015, who was 19 actually drafting the SOM policies and procedures?</p> <p>20 MR. KOBRIN: Object to form.</p> <p>21 Misrepresents the exhibit.</p> <p>22 THE WITNESS: So the exhibit is a draft 23 of the inventory control or it falls under order 24 monitoring policy, order monitoring system, and 25 I'm looking at document No. 30, and lays out</p>	<p style="text-align: right;">Page 233</p> <p>1 Q. During your time as the senior manager 2 of compliance at Giant Eagle, were you the one 3 that was most knowledgeable about these types of 4 policies and procedures for SOMS?</p> <p>5 MR. KOBRIN: Object to form.</p> <p>6 THE WITNESS: I'm sorry. Restate your 7 question, please.</p> <p>8 MR. HUDSON: Would you mind just reading 9 it back.</p> <p>10 (The record was read back.)</p> <p>11 THE WITNESS: Yeah, I was knowledgeable 12 on the subject.</p> <p>13 BY MR. HUDSON:</p> <p>14 Q. Were you the one -- at Giant Eagle, in 15 your mind, were you the one who was most 16 knowledgeable about the subject matter?</p> <p>17 A. I can't speak for the knowledge of 18 others, but I was the one that was the point 19 person responsible for investigating and 20 understanding the requirements as in the reg. and 21 then working with the other stakeholders for their 22 areas of expertise.</p> <p>23 Q. Were you and George the two that were 24 primarily responsible for the policies and 25 procedures, in other words, designing them and</p>

<p style="text-align: right;">Page 234</p> <p>1 then implementing them?</p> <p>2 MR. KOBRIN: Object to form. These</p> <p>3 particular policies or policies and procedures</p> <p>4 generally?</p> <p>5 MR. HUDSON: The SOMS policies and</p> <p>6 procedures.</p> <p>7 THE WITNESS: With regard to this, we</p> <p>8 would put it together to be reviewed by the group</p> <p>9 and the other stakeholders, so Bob McClune in</p> <p>10 purchasing, the central signers, loss prevention</p> <p>11 all have their feedback that goes into it, their</p> <p>12 view of it and their point of view which is very</p> <p>13 critical to make sure that the policy is -- once</p> <p>14 it goes into final form and into production is</p> <p>15 actionable and meets their areas which are</p> <p>16 somewhat different than mine.</p> <p>17 Q. But I guess what I'm trying to get at</p> <p>18 just to make sure that I've covered the waterfront</p> <p>19 here, in your time as senior manager of compliance</p> <p>20 at Giant Eagle, are you aware of anyone other than</p> <p>21 you and George who would have drafted or created</p> <p>22 SOMS policies or procedures?</p> <p>23 A. The timeframe you said is all of my time</p> <p>24 at Giant Eagle in that role?</p> <p>25 Q. Right, as the senior manager of</p>	<p style="text-align: right;">Page 236</p> <p>1 BY MR. HUDSON:</p> <p>2 Q. I appreciate that. I'm trying to get a</p> <p>3 direct answer to the question that I asked.</p> <p>4 Other than you or George, during your time as</p> <p>5 the senior manager of compliance at Giant Eagle,</p> <p>6 are you aware of anyone else who drafted or</p> <p>7 created a SOMS policies or procedures?</p> <p>8 MR. KOBRIN: Object to form. Asked and</p> <p>9 answered. He made reference to other people who</p> <p>10 worked on the policies.</p> <p>11 MR. HUDSON: If you want to coach him,</p> <p>12 that's my point, that those are other policies.</p> <p>13 My question is about SOMS policies and procedures.</p> <p>14 BY MR. HUDSON:</p> <p>15 Q. In your time as senior manager of</p> <p>16 compliance at Giant Eagle, are you aware of anyone</p> <p>17 other than you or George who drafted or created</p> <p>18 policies or procedures for SOMS?</p> <p>19 MR. KOBRIN: Ty, I'm not coaching him,</p> <p>20 but I think there's a miscommunication of what you</p> <p>21 mean by SOMS.</p> <p>22 THE WITNESS: All our policies and</p> <p>23 procedures, whether regardless, focused on --</p> <p>24 again, I can't speak to the policies and</p> <p>25 procedures that were in place when HBC was created</p>
<p style="text-align: right;">Page 235</p> <p>1 compliance.</p> <p>2 A. I believe we talked about earlier this</p> <p>3 morning that the policies or the procedures were</p> <p>4 in place for HBC before I got there, before I</p> <p>5 moved into the role when the distribution center</p> <p>6 opened, and then as in the role and as we did the</p> <p>7 revisions with regard to VAWD as the example, then</p> <p>8 there was an increase and got more involved in</p> <p>9 that process and with the overall looking at the</p> <p>10 total movement of controlled substances and within</p> <p>11 our lockdown realm of control.</p> <p>12 Q. I appreciate that answer. I want to</p> <p>13 make sure though the record is clear.</p> <p>14 During your time as senior manager of</p> <p>15 compliance at Giant Eagle, are you aware of any</p> <p>16 anyone other than you or George who would have</p> <p>17 drafted or created SOMS policies or procedures?</p> <p>18 MR. KOBRIN: Object to form. Asked and</p> <p>19 answered.</p> <p>20 THE WITNESS: In my time before we were</p> <p>21 involved -- other people who would be involved</p> <p>22 with distribution policies and procedures would</p> <p>23 have been distribution and the merchandising</p> <p>24 group, as I stated earlier.</p> <p>25</p>	<p style="text-align: right;">Page 237</p> <p>1 before I came into the role.</p> <p>2 Policies and procedures afterwards could be</p> <p>3 drafted or I would draft or George would draft</p> <p>4 collaboratively, and then those policies and</p> <p>5 procedures would be reviewed, as I had spoken</p> <p>6 earlier, through our policies and procedures</p> <p>7 committee.</p> <p>8 BY MR. HUDSON:</p> <p>9 Q. You have in front of you Exhibits I</p> <p>10 think they're 30 and 31; right?</p> <p>11 A. Yes.</p> <p>12 Q. You, yourself, have identified those as</p> <p>13 SOMS policies and procedures; right?</p> <p>14 A. Well, order monitoring system, yes.</p> <p>15 Q. In your second email, you said, team,</p> <p>16 here's my SOM; right?</p> <p>17 A. Yes.</p> <p>18 Q. SOM means suspicious order monitoring;</p> <p>19 right? And in that you're drafting policies and</p> <p>20 procedures; right?</p> <p>21 A. For GERX.</p> <p>22 Q. Right. So my question is: Other than</p> <p>23 you or George, during your time as the senior</p> <p>24 manager of compliance at Giant Eagle, are you</p> <p>25 aware of anyone else in the company who drafted</p>

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<p>1 any policies and procedures like Exhibits 30 or 2 31?</p> <p>3 MR. KOBRIN: Object to form. Asked and 4 answered.</p> <p>5 THE WITNESS: For this date, this is an 6 evolution of our order monitoring program as part 7 of our complete overview of or our control of 8 controlled substances movement throughout the 9 organization.</p> <p>10 BY MR. HUDSON:</p> <p>11 Q. Sir, are you able to answer the 12 question?</p> <p>13 MR. KOBRIN: Objection. Argumentative.</p> <p>14 THE WITNESS: People who may have 15 created policies at the time, and I think they 16 were earlier exhibits, were people that were 17 involved at the distribution center or through -- 18 again before the DC became or before we got 19 involved in the policies. I think this is 20 actually pretty good. I'm glad that we're seeing 21 it again, but anyway...</p> <p>22 BY MR. HUDSON:</p> <p>23 Q. Other than you or George though, give me 24 a list of the people at Giant Eagle who were 25 involved with creating SOM policies and</p>	<p>1 Matt Rogos as the policy owner.</p> <p>2 Q. In the process of drafting these two 3 policies, are you aware of anyone else who was 4 involved other than you and George and Matt Rogos?</p> <p>5 A. Our policy procedure group.</p> <p>6 Q. And who from that group was involved?</p> <p>7 A. Well, the list that I gave, the example 8 I gave earlier this morning when we talked about 9 it. Again, I'll go through. So me, George, I 10 mentioned Rick Springer, Steve Zubrow, Mary 11 Gibson, Jane Barnes, so those three internal or 12 external and internal counsel respectively.</p> <p>13 Adrienne Anthony. Matt would have been part or a 14 representative from the DC would have been part -- 15 for to review as well. But that was the -- I said 16 Rick Springer.</p> <p>17 That was our policy and procedure committee 18 that would review all the policies before they 19 would ever go to production that I was involved 20 with.</p> <p>21 Q. Were you ever aware of an initiative 22 within Giant Eagle of evaluating whether pain 23 management was a potential corporate business 24 opportunity?</p> <p>25 A. What's the timeframe of that you're</p>
<p>1 procedures.</p> <p>2 MR. KOBRIN: Object to form.</p> <p>3 BY MR. HUDSON:</p> <p>4 Q. Is there anyone other than you or 5 George?</p> <p>6 MR. KOBRIN: Object to form. Asked and 7 answered. We can go around this a lot, Ty. I 8 might be able to help clarify what's going on, but 9 I know you don't want me to interject and help out 10 with the deposition in any way. But I think 11 there's a miscommunication here, and I think 12 you're seeking something that's ill defined.</p> <p>13 BY MR. HUDSON:</p> <p>14 Q. Is there anything more that you can say 15 about that?</p> <p>16 A. I think I've said it.</p> <p>17 Q. -- if we go back to Exhibit 5, which is 18 the internal No. 12, did you or George draft these 19 policies?</p> <p>20 After the first two, I think you were gone 21 from the company. So my question would really be 22 just about the first two.</p> <p>23 A. I see what you're saying.</p> <p>24 Q. So for the first two policies.</p> <p>25 A. They would have been George and I with</p>	<p>1 referring to?</p> <p>2 Q. November of 2010.</p> <p>3 A. Yes.</p> <p>4 Q. And describe for me what you know about 5 that.</p> <p>6 A. I wasn't directly involved. As I -- 7 there was a trip to -- I apologize -- I believe it 8 was Oregon, I don't remember, to investigate a 9 pain management pharmacy. That business idea was 10 killed and never explored beyond that initial 11 visit.</p> <p>12 Q. You mean the idea was killed and never 13 went beyond the initial visit to a pain clinic in 14 Oregon?</p> <p>15 A. Being a dispensing pharmacy for a pain 16 clinic was not a business we had any interest in 17 beyond that initial visit. So that idea, that 18 business model never left the initial stages that 19 I'm aware of and never went to execution.</p> <p>20 Q. But you think that that initiative was 21 focused on looking at a pain management clinic in 22 Oregon?</p> <p>23 A. I believe that's where it was. I may be 24 wrong. I deserve the right to be wrong on that.</p> <p>25 Okay? I apologize.</p>

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<p>1 Q. That's fair.</p> <p>2 A. I wasn't involved in it. I didn't make</p> <p>3 the trip. But feedback from I believe it was</p> <p>4 Anthony, who was on that trip, said that that is</p> <p>5 not a business Giant Eagle ever wants to be</p> <p>6 involved in.</p> <p>7 Q. Why not?</p> <p>8 A. Why? We do not want to be involved in</p> <p>9 having a pain clinic pharmacy because of the --</p> <p>10 I'm not able to attest to what his thought process</p> <p>11 was. That's how he relayed it to me. That is not</p> <p>12 something we're interested in.</p> <p>13 Q. Did you have any understanding of why</p> <p>14 not?</p> <p>15 MR. KOBIN: Object to form. Asked and</p> <p>16 answered.</p> <p>17 THE WITNESS: From my opinion on the</p> <p>18 surface, not a business I want to be in.</p> <p>19 BY MR. HUDSON:</p> <p>20 Q. Because it's not profitable or why not?</p> <p>21 MR. KOBIN: Object to form.</p> <p>22 THE WITNESS: I don't think that's -- I</p> <p>23 don't want to be involved in a pain clinic</p> <p>24 pharmacy. It's not necessarily -- it's not</p> <p>25 something that we had any interest in.</p>	<p>1 prescription was -- that they acted in the course</p> <p>2 of their professional practice as the pharmacist</p> <p>3 in determining that.</p> <p>4 Q. But as a pharmacist, how do you know if</p> <p>5 the prescription is coming from a legitimate</p> <p>6 doctor or an illegitimate doctor?</p> <p>7 MR. KOBIN: Object to form.</p> <p>8 THE WITNESS: That's a very interesting</p> <p>9 question. You have to do your due diligence and</p> <p>10 make your individual determination based on the</p> <p>11 prescription, the prescribing pattern of the</p> <p>12 physician, the patient, to determine is this a --</p> <p>13 is it being used for legitimate use. It could be</p> <p>14 talking to the patient, saying, why are you using</p> <p>15 this.</p> <p>16 In our controlled substance dispensing</p> <p>17 guidelines, it's called out for the pharmacists</p> <p>18 are empowered to call the doctor to get the</p> <p>19 diagnoses, to get -- as far as even getting</p> <p>20 progress notes. We coach them to say -- the</p> <p>21 burden of proving that it's a legitimate</p> <p>22 prescription falls onto the prescriber before they</p> <p>23 fill that -- before they make that fill or do not</p> <p>24 fill determination. That's how our pharmacists</p> <p>25 were trained and coached.</p>
<p>1 BY MR. HUDSON:</p> <p>2 Q. Is that type of business at higher risk</p> <p>3 for diversion?</p> <p>4 MR. KOBIN: Object to form.</p> <p>5 THE WITNESS: Well, not being in that</p> <p>6 business, I can't say, because I don't -- I don't</p> <p>7 know necessarily. Okay? But that type of</p> <p>8 business certainly has -- requires or garners a</p> <p>9 significant amount of, let's say, review from the</p> <p>10 DEA. And I didn't believe in it, don't believe</p> <p>11 that was the right thing for any of our business.</p> <p>12 BY MR. HUDSON:</p> <p>13 Q. Do you know whether or not Giant Eagle</p> <p>14 retail pharmacies were filling prescriptions that</p> <p>15 were being written at pain management clinics?</p> <p>16 A. Giant Eagle pharmacies were filling</p> <p>17 prescriptions brought by patients that were -- the</p> <p>18 pharmacists were required to do their due</p> <p>19 diligence to determine is that a legitimate</p> <p>20 prescription for a legitimate medical use from a</p> <p>21 physician acting in their course of practice.</p> <p>22 So I believe whether it's from a dentist, as</p> <p>23 long as the pharmacist made their -- exercised</p> <p>24 their corresponding responsibility to determine</p> <p>25 that prescription was legitimate, I believe the</p>	<p>1 BY MR. HUDSON:</p> <p>2 Q. Were those some of the procedures that</p> <p>3 you were working on putting together in 2015?</p> <p>4 A. 2013. Actually, even before that. I'm</p> <p>5 sorry. It was shortly after. The controlled</p> <p>6 substance dispensing guidelines came out -- I</p> <p>7 forget the month, but I want to say somewhere</p> <p>8 2011-ish.</p> <p>9 Q. In 2011?</p> <p>10 A. For the controlled substance dispensing</p> <p>11 guidelines? I have to look at the document to see</p> <p>12 to refresh my timeline. But as I -- I referenced</p> <p>13 those earlier. That's the other reason why, to</p> <p>14 answer your question, the pharmacists had to make</p> <p>15 that individual determination. And they knew that</p> <p>16 the company, if they chose not to fill that</p> <p>17 prescription because they did their due diligence,</p> <p>18 the company would support that decision.</p> <p>19 Q. As you sit here today, are you aware of</p> <p>20 any pharmacists who did not fill prescriptions?</p> <p>21 A. Sure.</p> <p>22 Q. How many?</p> <p>23 A. I can't give you a number.</p> <p>24 Q. Is there some way within Giant Eagle</p> <p>25 that that was tracked?</p>

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<p>1 A. No.</p> <p>2 Q. Going back to the idea of pain</p> <p>3 management as a corporate business opportunity,</p> <p>4 were you aware of any efforts in the Cleveland</p> <p>5 market to advance that corporate initiative?</p> <p>6 A. No.</p> <p>7 Q. Are you aware of any conversations with</p> <p>8 the Cleveland Clinic?</p> <p>9 MR. KOBRIN: Object to form. Asked and</p> <p>10 answered.</p> <p>11 THE WITNESS: I do not recall any</p> <p>12 conversations or being part of conversations with</p> <p>13 regard to the question.</p> <p>14 MR. HUDSON: Let's take a short break.</p> <p>15 THE VIDEOGRAPHER: 5:08. We're off the</p> <p>16 video record.</p> <p>17 (Recess from 5:08 p.m. to 5:31 p.m.)</p> <p>18 THE VIDEOGRAPHER: 5:31. We're on the</p> <p>19 video record.</p> <p>20 BY MR. HUDSON:</p> <p>21 Q. Mr. Millward, we talked today about HBC,</p> <p>22 and I believe we agreed that HBC acted as a</p> <p>23 distributor of hydrocodone combination products</p> <p>24 from November of 2009 to October of 2014.</p> <p>25 Do you agree with that?</p>	<p>1 MR. KOBRIN: Can you repeat the</p> <p>2 timeframe?</p> <p>3 MR. HUDSON: All of these questions will</p> <p>4 be from November 2006 to October of 2014.</p> <p>5 THE WITNESS: Can you repeat it again</p> <p>6 now that I'm prepared?</p> <p>7 BY MR. HUDSON:</p> <p>8 Q. Sure. HBC did not have a computer</p> <p>9 system with an algorithm to monitor orders, to</p> <p>10 flag orders that were suspicious?</p> <p>11 MR. KOBRIN: Object to form.</p> <p>12 THE WITNESS: And a computer algorithm</p> <p>13 isn't required under the Act.</p> <p>14 BY MR. HUDSON:</p> <p>15 Q. You'd agree that HBC did not have any</p> <p>16 process for tracking in writing orders that were</p> <p>17 flagged for review?</p> <p>18 MR. KOBRIN: Object to form.</p> <p>19 Misrepresents the evidence and the record.</p> <p>20 THE WITNESS: We discussed earlier about</p> <p>21 retaining documents that were legally required and</p> <p>22 to retain those as required.</p> <p>23 BY MR. HUDSON:</p> <p>24 Q. As you sit here today, you can't tell me</p> <p>25 though between November of 2009 and October 2014,</p>
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<p>1 A. I agree.</p> <p>2 Q. And I think we established that HBC</p> <p>3 shipped more than 18 million dosage units of</p> <p>4 hydrocodone combination products to Cuyahoga and</p> <p>5 Summit counties; right? That's the transaction</p> <p>6 data that we looked earlier.</p> <p>7 A. Without a way to independently verify</p> <p>8 those numbers or I don't have a way to verify</p> <p>9 those numbers or the amount of prescriptions that</p> <p>10 they were pursuant to.</p> <p>11 Q. But you would agree that the data that</p> <p>12 we looked at, at least from the ARCos data, as</p> <p>13 presented to you, the documents that were created</p> <p>14 show more than 18 million dosage units shipped</p> <p>15 into Cuyahoga and Summit counties; right?</p> <p>16 MR. KOBRIN: Object to form.</p> <p>17 THE WITNESS: Again, I can say the</p> <p>18 documents you presented, those were the numbers</p> <p>19 that were on it.</p> <p>20 BY MR. HUDSON:</p> <p>21 Q. Now, during this time -- so these</p> <p>22 questions relate to the time period of</p> <p>23 November 2009 to October of 2014 -- do you agree</p> <p>24 that HBC had no computerized system with an</p> <p>25 algorithm to monitor orders?</p>	<p>1 how many orders of hydrocodone combination</p> <p>2 products HBC flagged as being orders of interest;</p> <p>3 right?</p> <p>4 MR. KOBRIN: Object to form.</p> <p>5 THE WITNESS: I don't have that data or</p> <p>6 recollection.</p> <p>7 BY MR. HUDSON:</p> <p>8 Q. And HBC didn't track that; right?</p> <p>9 A. Again, I don't have that recollection.</p> <p>10 Q. In other words, to your knowledge,</p> <p>11 there's nowhere we can go to try to determine how</p> <p>12 many orders HBC flagged as being orders of</p> <p>13 interest for potential diversion; is that fair?</p> <p>14 MR. KOBRIN: Object to form.</p> <p>15 Misrepresents the record.</p> <p>16 THE WITNESS: I don't have -- again, I</p> <p>17 don't have recollection of orders that were</p> <p>18 flagged. And any documents would be retained as</p> <p>19 required by law.</p> <p>20 BY MR. HUDSON:</p> <p>21 Q. And there's -- HBC had no standardized</p> <p>22 process for documenting whether it was doing a</p> <p>23 review or an investigation; correct?</p> <p>24 MR. KOBRIN: Object to form.</p> <p>25 THE WITNESS: So you asked, if I'm</p>

<p style="text-align: right;">Page 250</p> <p>1 understanding you correctly, did not have a 2 procedure for documenting? Did I interpret that 3 correctly? 4 BY MR. HUDSON: 5 Q. For documenting reviews or 6 investigations; correct. 7 A. Or a requirement to do so? 8 Q. Right. But my question is just you 9 agree with me HBC had no standardized process for 10 documenting in writing reviews or investigations 11 that it was doing of orders; correct? 12 A. I don't agree with the phrasing of the 13 question. 14 Q. As you sit here today, is there anywhere 15 I can look to determine which shipments or orders 16 HBC reviewed or investigated to try to determine 17 whether they were at risk for diversion? 18 A. I'm not aware of or have knowledge of 19 orders that were flagged. And again, 20 documentation would only be required -- or 21 document retention, the company would have 22 followed what those rules were, the laws. 23 Q. You agree that HBC during this time 24 period had no standardized process for tracking 25 the progress of reviews or investigations;</p>	<p style="text-align: right;">Page 252</p> <p>1 investigation as it's not required. 2 BY MR. HUDSON: 3 Q. Since you are aware of no orders of 4 hydrocodone combination products that were worthy 5 of being flagged, you agree then there's no review 6 or investigation notes that we can look at to 7 determine what HBC did to evaluate whether or not 8 any of their hydrocodone combination product 9 shipments were at risk for diversion? 10 MR. KOBRIN: Object to form. It 11 misrepresents the record. 12 THE WITNESS: Can you restate that again 13 a little differently? 14 BY MR. HUDSON: 15 Q. Sure. 16 A. I just want to make sure I understand 17 you thoroughly. 18 Q. As you sit here today, are you aware of 19 any reviews or investigations that were done by 20 HBC of any orders of hydrocodone combination 21 products? 22 A. So as we looked at the -- we talked 23 previously and discussed at store 8 inquiring, 24 sending it to the pharmacy district manager to 25 investigate. So I apologize for not fully</p>
<p style="text-align: right;">Page 251</p> <p>1 correct? 2 A. Again, I disagree with the form of the 3 question. But again -- actually repeat it one 4 more time. 5 Q. You agree HBC had no standardized 6 process for tracking the progress of its reviews 7 or investigations? 8 MR. KOBRIN: Object to form. 9 Misrepresents the record. 10 THE WITNESS: Again, I don't agree with 11 the form of the question, nor was there a 12 requirement to create documentation. 13 BY MR. HUDSON: 14 Q. But you would agree with me that there's 15 nowhere within Giant Eagle or HBC where we could 16 go to and look in a repository or a file and be 17 able to determine what was happening on any review 18 or investigation of any order that was flagged for 19 being suspicious of diversion; is that fair? 20 MR. KOBRIN: Object to form. 21 Misrepresents the record. 22 THE WITNESS: I'm not aware of any 23 orders for hydrocodone-containing products that 24 were flagged, and I'm not again aware of any 25 documentation or repository thereof for any</p>	<p style="text-align: right;">Page 253</p> <p>1 understanding the force of your question. 2 Q. Other than that one, are there any other 3 investigations you're aware of or reviews that 4 occurred? 5 A. The orders that came up on the flag 6 reports would all have been reviewed. 7 Q. Each and every one of them? 8 A. To determine whether there was any 9 diversion or activity. 10 Q. So Exhibits 10 through 21 that we looked 11 at earlier, those reports, it's your testimony 12 that each and every one of the orders that were 13 listed on those reports were reviewed or 14 investigated for risk of diversion? 15 A. Well, I can't recall every individual 16 case and I can speak to store 8 as it's been 17 refreshed. That information would belong to the 18 pharmacy district manager, pushed to them, to take 19 a look at. And that was before we had other 20 systems to be able to look into movement 21 centrally. 22 Q. I don't understand. What does that 23 mean? You have those Exhibits 10 through 21. We 24 talked about them earlier today. They're these 25 reports. What did it mean they were pushed to the</p>

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<p>1 pharmacy district managers to take a look at?</p> <p>2 A. That's what the -- when you see the</p> <p>3 store 8, Todd the store flagged, I believe.</p> <p>4 Q. Are you saying you or George contacted</p> <p>5 the pharmacy district managers?</p> <p>6 A. To have them take a look at it, one of</p> <p>7 us, anybody on that distribution list would have</p> <p>8 been able to as well. But to send it to them to</p> <p>9 say you have a store that's on the report, take a</p> <p>10 look, tell me.</p> <p>11 Q. Is there any reason why any of those</p> <p>12 reviews or investigations, why there wasn't a</p> <p>13 process put in place to track what was being done?</p> <p>14 MR. KOBRIN: Object to form. Asked and</p> <p>15 answered.</p> <p>16 THE WITNESS: You're asking if there was</p> <p>17 a procedure for recording those investigations?</p> <p>18 BY MR. HUDSON:</p> <p>19 Q. My question is: Is there any reason</p> <p>20 why -- so now I'm asking about the reason -- is</p> <p>21 there any reason why you did not put a process in</p> <p>22 place to document in writing the reviews or</p> <p>23 investigations that were occurring?</p> <p>24 MR. KOBRIN: Object to form. Asked and</p> <p>25 answered.</p>	<p>1 when, as we've established, the report was</p> <p>2 created, then those reports and movements would</p> <p>3 have been pushed. The only one we have</p> <p>4 documentation of, store 8, and it's been three,</p> <p>5 five years.</p> <p>6 BY MR. HUDSON:</p> <p>7 Q. Right. That's all I'm getting at. If</p> <p>8 we had documented each review or investigation and</p> <p>9 put those into writing, wouldn't that be easier</p> <p>10 for us today to be trying to figure out what HBC</p> <p>11 did between 2009 and 2014?</p> <p>12 MR. KOBRIN: Object to form.</p> <p>13 THE WITNESS: As a speculation and</p> <p>14 crystal ball looking into the magic 8 ball of</p> <p>15 would this be easier, that's an interesting</p> <p>16 question.</p> <p>17 BY MR. HUDSON:</p> <p>18 Q. Do you want to answer it?</p> <p>19 MR. KOBRIN: Object to form.</p> <p>20 THE WITNESS: It's hard to say. I don't</p> <p>21 have a good -- I'm not going to speculate.</p> <p>22 BY MR. HUDSON:</p> <p>23 Q. We do agree though that HBC never</p> <p>24 blocked a single shipment of hydrocodone</p> <p>25 combination products during the time that it was a</p>
<p style="text-align: center;">Page 255</p> <p>1 THE WITNESS: Not a requirement.</p> <p>2 BY MR. HUDSON:</p> <p>3 Q. Would you agree that it would be easier</p> <p>4 for us to today to try to figure out what HBC did</p> <p>5 if HBC would have documented in writing the</p> <p>6 reviews and investigations that occurred?</p> <p>7 MR. KOBRIN: Object to form, as you</p> <p>8 repeatedly asked and repeatedly answered for a</p> <p>9 long period this morning. I want that on the</p> <p>10 record.</p> <p>11 THE WITNESS: You're asking an "if"</p> <p>12 question for me to speculate as to how you would</p> <p>13 be able to see that. I don't believe I can answer</p> <p>14 that.</p> <p>15 BY MR. HUDSON:</p> <p>16 Q. I'm asking: Would you agree as we sit</p> <p>17 here today and we're trying to figure out what</p> <p>18 reviews or investigations occurred, other than</p> <p>19 store 8 -- is there any other investigation you</p> <p>20 can tell me about that occurred between November</p> <p>21 of 2009 and October of 2014 of hydrocodone</p> <p>22 combination products?</p> <p>23 MR. KOBRIN: Object to form.</p> <p>24 THE WITNESS: So 2009 to October '10 I</p> <p>25 wasn't in the role. Beyond to where after 2013</p>	<p style="text-align: center;">Page 257</p> <p>1 distributor of those products; correct?</p> <p>2 A. Again, I can't speak to what happened</p> <p>3 before I was in the role, understanding -- with</p> <p>4 that qualifier.</p> <p>5 Q. At least while you were there though,</p> <p>6 you agree there was never a shipment of</p> <p>7 hydrocodone combination products that were blocked</p> <p>8 from shipment at HBC; correct?</p> <p>9 A. I'm not aware of any shipment that was</p> <p>10 blocked.</p> <p>11 Q. You agree that during the time you were</p> <p>12 the senior manager of compliance, there was never</p> <p>13 a shipment of hydrocodone combination products</p> <p>14 where you notified the DEA that they were a</p> <p>15 suspicious order; right?</p> <p>16 A. Again, I'm not aware that there was a</p> <p>17 flag that was deemed to be suspicious.</p> <p>18 MR. HUDSON: I don't have any further</p> <p>19 questions.</p> <p>20 EXAMINATION</p> <p>21 BY MR. KOBRIN:</p> <p>22 Q. Mr. Millward, you were asked earlier</p> <p>23 today about stopping shipments on orders of</p> <p>24 interest while they were being investigated.</p> <p>25 Do you recall that line of questioning?</p>

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1 A. I do.	1 even if the order had been started to be filled at
2 Q. Tell me, are there different means	2 the warehouse or even filled at the warehouse and
3 through which Giant Eagle or HBC investigates an	3 shipped? Had you lost control of the order?
4 order of interest?	4 A. Because, as stated earlier, Giant Eagle
5 A. Yes. We talked at length about the	5 distributed to itself, we were our customer, we
6 threshold or the Voelker report, so to speak, but	6 knew everything about the characteristics of our
7 there were other systems in place. Giant Eagle	7 store and had control of and control of the
8 invested in two tools from a company by the name	8 product from where it entered into the DC till it
9 of Supply Logics.	9 left in a prescription for an end user patient.
10 Supply Logics had two products, Pinpoint	10 If something needed to be quarantined and
11 Monitor and Pinpoint Audit, one looking at	11 removed from dispensing stock, we had the ability
12 pharmacy purchasing patterns, the other looking at	12 to have our stores pull that aside, if necessary,
13 pharmacy dispensing patterns.	13 to prevent it from being dispensed.
14 Giant Eagle also invested in a dedicated	14 Q. You talked about a visit to Purdue that
15 person to review those or to have access and	15 you made in order to see their practices. Why did
16 review those tools to look for any -- really as a	16 Giant Eagle visit Purdue?
17 redundant mechanism to look for any kind of	17 A. It was a conference call. It was a
18 movement of controlled substances that could	18 conference call that we had. And I believe Purdue
19 potentially be a flag for investigation.	19 reached out to us through the purchasing group,
20 Q. Just to clarify the record, are there	20 put in contact with me for George and I to have a
21 situations where through this investigation you	21 conference call, again, along the lines of the
22 could stop an order of interest before it shipped?	22 Thrifty White, for example.
23 A. That is correct. If a report was	23 It was just another example of reaching out
24 generated or a flag was generated, we had the	24 to determine what are some other things other
25 potential to stop the orders for that store until	25 organizations -- now Purdue being very different
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1 an investigation could be fully fleshed out.	1 from us as only a manufacturer and then a
2 Q. That was if a flag was generated by the	2 distributor to distributors, not dispensing.
3 person you had hired to do investigation --	3 It was essentially used as intel or insight
4 A. Correct.	4 as to what other organizations are doing so we can
5 Q. -- with this Supply Logic program?	5 continue, as I had spoken repeatedly, improve and
6 A. Correct. His name was Jason Mullen.	6 evolve and tighten our practices.
7 Q. And he could do these investigations and	7 Q. You said Purdue was very different from
8 he could stop the shipment when that store made an	8 you. Can you elaborate on that?
9 order if he found there was a reason to	9 A. Purdue is a maker of brand -- well, most
10 investigate that store; is that correct?	10 known for Oxycontin. We mentioned earlier
11 A. That is correct.	11 Hysingla, which was in an email. And they are a
12 Q. Now, were there other situations in	12 manufacturer that has a worldwide presence.
13 which you could not necessarily stop a shipment	13 Q. They are not, as Giant Eagle is, a
14 even after you identified an order of interest?	14 regional or, rather, as HBC is a regional
15 A. So the Kayla report was a report that	15 distributor to captive pharmacy purchasers?
16 came out the next day after a store had received	16 A. No. They are not a regional distributor
17 the order, and that's where that store had already	17 for captive pharmacies.
18 received it. So it afforded the opportunity to	18 Q. Or a captive orderer, rather.
19 investigate at that point and stop future orders	19 A. Exactly. The companies are very
20 it determined to be suspicious and then	20 different.
21 subsequently reported as required.	21 Q. You also mentioned one of the things
22 Q. Did you ever do that, stop future	22 that you found interesting at Purdue was that they
23 orders?	23 were tracking the percentage of cash purchases.
24 A. We did.	24 Do you recall that?
25 Q. And was there anything else you could do	25 A. I do.

<p style="text-align: right;">Page 262</p> <p>1 Q. And opposing counsel asked about whether 2 you knew or whether that was something that Giant 3 Eagle did not do. Do you recall that?</p> <p>4 A. I do.</p> <p>5 Q. To clarify the record at all, was there 6 any point at which Giant Eagle was able to do that 7 kind of tracking and that kind of investigation?</p> <p>8 A. So as I had mentioned, Jason Mullen and 9 the Supply Logics tool, the Supply Logics and I 10 believe -- one that was involved in the dispensing 11 patterns, Jason, his job was to go in and 12 investigate, to parse the data, and had the 13 ability to break it down via what the industry and 14 the DEA have defined as red flags to determine, 15 and one of those being percentage of cash 16 prescriptions for target chemical entities like 17 the oxycodone or hydrocodone and 18 hydrocodone-containing products, which by this 19 time rescheduled.</p> <p>20 So yes, he absolutely had the ability to 21 review that data and to present to us information.</p> <p>22 Q. And he would preemptively review that 23 data, or would he be responding to orders? What 24 was Jason Mullen doing?</p> <p>25 A. The great thing about having the tool</p>	<p style="text-align: right;">Page 264</p> <p>1 Q. Opposing counsel just asked you several 2 questions about if you had retained such documents 3 or if you had had some kind of a retention policy 4 and a recording policy that recorded every single 5 investigation you conducted, it would make things 6 easier for him. Do you recall that?</p> <p>7 A. I do recall that.</p> <p>8 Q. We do, however, have the reports that 9 you referred to as the Voelker reports that are 10 daily reports, and those show every single order 11 that was flagged. Is that accurate?</p> <p>12 A. That's correct.</p> <p>13 Q. By the Voelker system, not by the other 14 controls that we have in place, but by the Voelker 15 system, does that show everything that was 16 flagged?</p> <p>17 A. Correct, based on the thresholds.</p> <p>18 Q. And there were over a thousand reports 19 produced from that system; is that correct?</p> <p>20 A. To be honest, I don't know an 21 accumulated number.</p> <p>22 Q. Well, those came out daily from the 23 period which it started until the end of your 24 tenure at Giant Eagle; correct?</p> <p>25 MR. HUDSON: Object to form.</p>
<p style="text-align: right;">Page 263</p> <p>1 and having somebody dedicated to use it is they 2 could go on and they could dive into the data and 3 search for movement issues unprompted, so not 4 necessarily directed by intel from a store or a 5 movement pattern of an individual product.</p> <p>6 And he could find -- he could look into that 7 and get as granular as creating geographical maps 8 of the patients and the doctors to help better 9 understand where those prescriptions were coming 10 from.</p> <p>11 Q. Did this help you to preempt potential 12 orders of interest?</p> <p>13 A. This did. It did help us prevent and 14 stop orders for stores, again, with buprenorphine.</p> <p>15 Q. You mentioned that you attended a DEA 16 conference in 2013. Do you recall that?</p> <p>17 A. I do.</p> <p>18 Q. At that conference, do you recall any 19 discussions at all about having written policies 20 in regard to suspicious order monitoring?</p> <p>21 A. I do not.</p> <p>22 Q. Do you recall there being any discussion 23 at all about requirements to maintain documents of 24 investigations pursuant to your policies?</p> <p>25 A. I do not.</p>	<p style="text-align: right;">Page 265</p> <p>1 BY MR. KOBIN:</p> <p>2 Q. Did those come out daily starting in 3 2014 until the end of your tenure at Giant Eagle?</p> <p>4 A. I believe so.</p> <p>5 Q. On those reports, it specified the 6 particular orders and the particular stores and 7 the particular product being ordered; correct?</p> <p>8 A. The particular product order with regard 9 to accumulated quantity to threshold; correct.</p> <p>10 Q. You talked about the fact that you would 11 review each of those, whether it was by you 12 reviewing it or by you pushing it to a PDL to 13 investigate the order; is that correct?</p> <p>14 A. That's correct.</p> <p>15 Q. Was an explanation for one particular 16 order ever relied upon to excuse other orders from 17 the same pharmacy?</p> <p>18 MR. HUDSON: Object to the form.</p> <p>19 MR. KOBIN: What's your objection?</p> <p>20 MR. HUDSON: To the form.</p> <p>21 MR. KOBIN: What's the --</p> <p>22 MR. HUDSON: You want me to explain?</p> <p>23 MR. KOBIN: Yeah.</p> <p>24 MR. HUDSON: It's vague.</p> <p>25</p>

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<p>1 BY MR. KOBRIN:</p> <p>2 Q. Counsel showed you some orders from 3 store 8, and we looked at a particular order that 4 you had a PDL investigate. Do you remember that?</p> <p>5 A. I do.</p> <p>6 Q. And in that case, you had him 7 investigate one order. And he came back with an 8 explanation after his investigation. Do you 9 remember that?</p> <p>10 A. I do.</p> <p>11 Q. Would you have relied on that 12 investigation of store 8 for that particular order 13 and that particular month to explain other orders 14 that were flagged in the Voelker system?</p> <p>15 MR. HUDSON: Object to form.</p> <p>16 THE WITNESS: No. I would not have 17 relied on one explanation in one month to account 18 for every subsequent month.</p> <p>19 BY MR. KOBRIN:</p> <p>20 Q. Would you have reviewed the other orders 21 that triggered or appear in the threshold report?</p> <p>22 A. Yes, we would have.</p> <p>23 Q. The document showing that you 24 investigated the store 8 order where you sent the 25 message to the PDL and he explained why the order</p>	<p>1 Q. Was there any requirement that you 2 create any kind of record? Strike.</p> <p>3 Was there any requirement under any DEA 4 regulation that you create or maintain such 5 records?</p> <p>6 A. There was no requirement.</p> <p>7 Q. Finally, do you believe at all times 8 that Giant Eagle was in compliance with the 9 security requirements, including the subpart 10 relating to SOM? And when I say Giant Eagle, I 11 mean Giant Eagle and HBC.</p> <p>12 A. I believe Giant Eagle was fully 13 compliant for the handling and the movement of 14 controlled substances within the organization as 15 evidenced by what we discussed earlier, the 16 various levels of control at all levels, and that 17 understanding evolved over the course of time.</p> <p>18 Q. Do you believe these levels of controls 19 over controlled substances would prevent 20 suspicious orders?</p> <p>21 A. I believe the controls that we had in 22 place from the store level -- remember an order is 23 generated subsequent to prescription dispensing -- 24 that the controls that we had around our pharmacy 25 teams and as I discussed about their doing their</p>
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<p>1 that had flagged was not suspicious, would similar 2 records be created in your email from when you 3 requested that people investigate orders?</p> <p>4 A. If the communication was via email or 5 via phone call to have them do it, do the 6 investigation.</p> <p>7 Q. So you would have a record, a paper 8 record of email and the threshold reports that you 9 received via email daily; is that accurate?</p> <p>10 A. I don't believe there was a requirement 11 to retain.</p> <p>12 Q. But did you do that anyway?</p> <p>13 MR. HUDSON: Object to form.</p> <p>14 BY MR. KOBRIN:</p> <p>15 Q. Did you have documentation in your 16 emails and in threshold reports? Whether they 17 were retained or not, were these things documented 18 via email and the threshold reports?</p> <p>19 MR. HUDSON: Object to the form.</p> <p>20 THE WITNESS: As the PDLs would respond 21 via email, they would have been in my email.</p> <p>22 BY MR. KOBRIN:</p> <p>23 Q. Was this required pursuant to any DEA 24 regulation that you're aware of?</p> <p>25 A. No.</p>	<p>1 professional obligation with regard to determining 2 a prescription is legitimate before filling it or 3 declining to fill, that that movement generates 4 the orders.</p> <p>5 So if there is -- if you eliminate the -- if 6 you eliminate the bad movement by doing your due 7 diligence under the corresponding responsibility 8 as prescribed in the regs., that no suspicious 9 order should be generated.</p> <p>10 Q. Thank you very much, Mr. Millward.</p> <p>11 MR. KOBRIN: Pass the witnesses.</p> <p>12 RE-EXAMINATION</p> <p>13 BY MR. HUDSON:</p> <p>14 Q. Mr. Millward, Mr. Mullen, he joined -- 15 Jason Mullen, you talked about him. And he's a 16 capable investigator; right?</p> <p>17 A. Jason had a -- he had an inquisitive 18 nature and had an ability with the systems.</p> <p>19 (HBC-Millward Exhibit 32 was marked.)</p> <p>20 BY MR. HUDSON:</p> <p>21 Q. I'm going to hand you what's marked as 22 Exhibit 32, and I'm really just focused on the 23 last email of that.</p> <p>24 MR. HUDSON: This internal number is 25 1125.</p>

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<p>1 BY MR. HUDSON:</p> <p>2 Q. The bottom one is an email from you. In 3 that you say, "Our new LP pharmacy analyst, Jason 4 Mullen, will be analyzing controlled substance 5 movement data as part of his new role"; right?</p> <p>6 A. That is correct.</p> <p>7 Q. That's in November of 2015; right?</p> <p>8 A. Yes.</p> <p>9 Q. At that time, HBC was no longer even a 10 distributor of hydrocodone combination products; 11 right?</p> <p>12 A. At that time; correct. It was after it 13 was rescheduled.</p> <p>14 Q. So to your knowledge, Mr. Mullen never 15 used Supply Logic to track any of the movement of 16 hydrocodone combination products that were 17 distributed by HBC; correct?</p> <p>18 A. That's correct. He wasn't in the role 19 at that time, to my knowledge.</p> <p>20 Q. You just testified in response to 21 questions from HBC's counsel that in your view, 22 Giant Eagle and HBC were fully compliant with the 23 Controlled Substances Act including the SOMS 24 requirements; right?</p> <p>25 A. By SOMS requirement, 1301.74(b)?</p>	<p>1 A. Correct.</p> <p>2 Q. Now, you've now had a chance to answer 3 questions from counsel, and so far, what we've 4 been able to identify is documentation of one 5 investigation of one hydrocodone combination 6 product; correct?</p> <p>7 A. Well, we've talked also about 8 buprenorphine as well.</p> <p>9 Q. Right. But in terms of hydrocodone 10 combination products, we've seen documentation to 11 prove that there was one investigation?</p> <p>12 A. As presented, that is the email chain 13 from that.</p> <p>14 Q. So there was -- there were over a 15 thousand shipments that under your system were 16 flagged as a potential suspicion of diversion. 17 But today we've established that at least one of 18 them was investigated?</p> <p>19 MR. KOBRIN: Object to form.</p> <p>20 THE WITNESS: Let me change that. They 21 were flagged as orders of interest or stores of 22 interest and were investigated. There was not -- 23 it's premature to say they were suspicious in your 24 question.</p> <p>25</p>
<p style="text-align: center;">Page 271</p> <p>1 Q. Right.</p> <p>2 A. That they have a system designed -- 3 design and operate a system to disclose to the 4 registrant suspicious orders?</p> <p>5 Q. Right.</p> <p>6 A. Yes.</p> <p>7 Q. We've seen the Voelker report right, 8 these reports, and I think you testified that 9 there were 1100 orders that were flagged as being 10 above your threshold.</p> <p>11 A. I testified I don't know the number.</p> <p>12 Q. I think actually HBC's counsel was 13 asking you questions, and I think you answered 14 yes, there were 1100 that were flagged.</p> <p>15 MR. KOBRIN: Object.</p> <p>16 BY MR. HUDSON:</p> <p>17 Q. Does that refresh your recollection?</p> <p>18 MR. KOBRIN: Object to form.</p> <p>19 Misrepresents the record.</p> <p>20 THE WITNESS: Again, I don't believe I 21 testified to the exact number of reports, but 22 reports were printed daily for a period of time.</p> <p>23 BY MR. HUDSON:</p> <p>24 Q. I think you said from October of 2013 25 until the end of your tenure; right?</p>	<p style="text-align: center;">Page 273</p> <p>1 BY MR. HUDSON:</p> <p>2 Q. Weren't they flagged as being orders of 3 interest because they were of an unusual size 4 because they were beyond the thresholds that you 5 set?</p> <p>6 MR. KOBRIN: Object to form.</p> <p>7 THE WITNESS: And as discussed as well, 8 though threshold was -- when we -- threshold was 9 just an average of the or a multiple, whatever it 10 happened to be, of a chain movement, overall 11 movement.</p> <p>12 BY MR. HUDSON:</p> <p>13 Q. Right. But you had 1100 shipments of 14 unusual size that were above the thresholds that 15 HBC set, and today we've been able to show an 16 investigation -- documentation of an investigation 17 of one of those that was a hydrocodone combination 18 product; right?</p> <p>19 MR. KOBRIN: Object to form.</p> <p>20 THE WITNESS: We've entered or we have 21 one email that was presented.</p> <p>22 BY MR. HUDSON:</p> <p>23 Q. Is there anything else as you sit here 24 today that you can point to as documentation to 25 show a review or an investigation of those orders</p>

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<p>1 of interest of unusual size?</p> <p>2 A. As I sit here today, as you said, I am</p> <p>3 two years removed from the organization and do not</p> <p>4 have any access or even recollection of what -- or</p> <p>5 requirement to even say for the company to save</p> <p>6 those documentation, if any existed.</p> <p>7 Q. Today you can't say whether you or</p> <p>8 Mr. Chunderlik -- you can't tell us anything more</p> <p>9 specific about the details of any review or any</p> <p>10 investigation that was conducted by you or</p> <p>11 Mr. Chunderlik between 2009 and 2014 that we</p> <p>12 haven't already talked about; correct?</p> <p>13 MR. KOBRIN: Object to form.</p> <p>14 Misrepresents his testimony.</p> <p>15 THE WITNESS: George would have to speak</p> <p>16 for him understandably and respectfully, but I'm</p> <p>17 not able to -- other than the buprenorphine issues</p> <p>18 that we talked about, which were two other</p> <p>19 examples in Pennsylvania stores on the Schedule</p> <p>20 III -- I believe it's Schedule III -- on the</p> <p>21 Subutex where we did have investigations.</p> <p>22 BY MR. HUDSON:</p> <p>23 Q. But you can't speak to -- other than</p> <p>24 store number 8, which we talked about that email,</p> <p>25 you can't speak to any reviews or investigations</p>	<p>1 PDLs reach out to the stores to justify the move</p> <p>2 or to investigate it.</p> <p>3 Q. And you would do that each time the</p> <p>4 order flagged. You wouldn't rely on a prior</p> <p>5 explanation for the prior month; is that correct?</p> <p>6 A. Well, the way the report was cumulative,</p> <p>7 so once a store flagged for that month, it would</p> <p>8 be on each subsequent day. So an explanation on</p> <p>9 the 20th still holds true for the 21st, for</p> <p>10 example.</p> <p>11 Q. But if another order flagged --</p> <p>12 A. For another store, then, yes, that would</p> <p>13 be -- that would be the next or that would be the</p> <p>14 direction for the PDL of whatever store to do</p> <p>15 their investigation.</p> <p>16 Q. And you recall doing that each time the</p> <p>17 orders came in on the investigation report?</p> <p>18 A. The PDLs would be directed to find out</p> <p>19 what's going on at the store, to reach to the</p> <p>20 store, whether by phone, email or on-site visit,</p> <p>21 to do so.</p> <p>22 Q. Thank you, Mr. Millward.</p> <p>23 MR. HUDSON: Just one last question.</p> <p>24 RE-EXAMINATION (Continued)</p>
<p>1 that were done of any of the hydrocodone</p> <p>2 combination products that were above the</p> <p>3 thresholds; correct?</p> <p>4 A. Having been removed from the company or</p> <p>5 this amount of time, in a timeframe perspective, I</p> <p>6 don't have any exact recollection of others.</p> <p>7 Q. I don't have any further questions.</p> <p>8 RE-EXAMINATION</p> <p>9 BY MR. KOBRIN:</p> <p>10 Q. One quick question. Counsel asked you</p> <p>11 for specific recollections of investigations, and</p> <p>12 then refreshed you with only one piece of evidence</p> <p>13 regarding the investigation; is that correct?</p> <p>14 A. Correct.</p> <p>15 Q. We did, however, look at numerous other</p> <p>16 reports from the Voelker report; correct?</p> <p>17 A. Correct.</p> <p>18 Q. I know you don't have any specific</p> <p>19 recollection of these flagged orders from several</p> <p>20 years ago, but as a general matter, do you recall</p> <p>21 that when you would get the Voelker report, you</p> <p>22 would have someone review the orders that flagged</p> <p>23 in order to confirm that they were or were not</p> <p>24 suspicious?</p> <p>25 A. Correct. We'd send it out to have the</p>	<p>1 Page 275</p> <p>1 BY MR. HUDSON:</p> <p>2 Q. Just to be clear, there were over a</p> <p>3 thousand of those reports. And it's your</p> <p>4 testimony that you or Mr. Chunderlik led the</p> <p>5 review or investigation of each and every one of</p> <p>6 those.</p> <p>7 But today when I've asked you to recall any</p> <p>8 of the details from any of them, other than the</p> <p>9 one that we've talked about, you're not able to</p> <p>10 speak to any of them?</p> <p>11 MR. KOBRIN: Object to form.</p> <p>12 BY MR. HUDSON:</p> <p>13 Q. Is that correct, sir?</p> <p>14 MR. KOBRIN: Object to form. Are you</p> <p>15 talking only about hydrocodone combination</p> <p>16 products? Because he has mentioned a few other</p> <p>17 ones that he recalls.</p> <p>18 BY MR. HUDSON:</p> <p>19 Q. As to hydrocodone combination products,</p> <p>20 you cannot recall the specifics of any particular</p> <p>21 review or investigation that occurred during the</p> <p>22 time that those threshold reports were generated;</p> <p>23 correct?</p> <p>24 MR. KOBRIN: Object to form.</p> <p>25 THE WITNESS: Correct. I don't recall</p>

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1 what the responses were from a PDM or a PDL on an 2 individual email beyond what was refreshed by the 3 document. 4 BY MR. HUDSON: 5 Q. Sir, isn't that important -- isn't that 6 why it's very important as a compliance person to 7 put things in writing? 8 MR. KOBRIN: Object to form. Asked and 9 answered. There's no evidence they weren't put in 10 writing. 11 MR. HUDSON: Do you want to testify for 12 him? Let me start that over. 13 BY MR. HUDSON: 14 Q. Isn't the lack of a recollection of 15 reviews or investigations that were done, isn't 16 that exactly why from a compliance perspective you 17 should put things in writing? 18 A. I don't think it -- it wasn't required 19 to have or retain those documents or 20 communications. And that's where I stand. That's 21 where it is. 22 Q. No further questions. Thank you. 23 THE VIDEOGRAPHER: 6:14. We're off the 24 video record. This concludes the video deposition 25 of Joseph Millward.	1 COMMONWEALTH OF PENNSYLVANIA) 2 COUNTY OF ALLEGHENY) SS: 3 C E R T I F I C A T E 4 I, Ann Medis, Registered Professional 5 Reporter, Certified Livenote Reporter and Notary 6 Public within and for the Commonwealth of 7 Pennsylvania, do hereby certify: 8 That JOSEPH E. MILLWARD, the witness 9 whose deposition is hereinbefore set forth, was 10 duly sworn by me and that such deposition is a 11 true record of the testimony given by such 12 witness. 13 I further certify the inspection, 14 reading and signing of said deposition were not 15 waived by counsel for the respective parties and 16 by the witness. 17 I further certify that I am not related 18 to any of the parties to this action by blood or 19 marriage and that I am in no way interested in the 20 outcome of this matter. 21 IN WITNESS WHEREOF, I have hereunto set 22 my hand this 27th day of December, 2018. 23 24 Notary Public 25
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1 (Whereupon, at 6:14 p.m., the taking of 2 the instant deposition ceased.) 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	1 COMMONWEALTH OF PENNSYLVANIA) E R R A T A 2 COUNTY OF ALLEGHENY) S H E E T 3 I, JOSEPH E. MILLWARD, have read the 4 foregoing pages of my deposition given on 5 December 20, 2018, and wish to make the following, 6 if any, amendments, additions, deletions or 7 corrections: 8 Page Line Change and reason for change: 9 _____ 10 _____ 11 _____ 12 _____ 13 _____ 14 _____ 15 _____ 16 _____ 17 _____ 18 _____ 19 In all other respects, the transcript is true and correct. 20 21 JOSEPH E. MILLWARD 22 _____ day of _____, 2018. 23 _____ 24 Notary Public 25